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HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2524 of 2007

1. Kanhaiyalal Minj S/o Tetgu Ram, Aged about 32 years, R/o Udaypur, Tahsil Ambikapur, District Surguja (CG)
2. Amardeep Ram S/o Amonbakhla, Aged about 32 years, R/o Ambikapur, Surguja (CG)
3. Mukesh Lakda @ Mukeshwar Lakda S/o Madhav Lakda, Aged about 32 years, R/o Ramanujganj, District Surguja (CG)
4. Ayan Ansari S/o Alimuddin Ansari, Aged about 34 years, R/o Ambikapur, District Surguja (CG)
5. Praveen Kumar Sinha, S/o Suresh Prasad Sinha, Aged about 38 years, R/o Kedarpur, Ambikapur Surguja (CG)
6. Ajit Kumar Ravindran S/o N.S. Ravindran, Aged about 34 years, R/o Namnakala, Ambikapur, Surguja (CG)

---- Petitioners

Versus

1. State of Chhattisgarh, Through Secretary School Education, Department of School Education/Sarva Shiksha Abhiyan, DKS Bhawan, Raipur, District Raipur (CG)
2. Mission Director, State Project Office, Rajeev Gandhi Shiksha Mission, Chhattisgarh Pension Bada, Raipur, District Raipur (CG)
3. Director and District Mission Director, Rajeev Gandhi Shiksha Mission (Sarva Shiksha Abhiyan), Ambikapur, District Surguja (CG)

---- Respondent

For Petitioners	Ms. Rasheel Bhawnani, Advocate on behalf of Manoj Paranjpe, Advocate

For Respondent/State Mr. Chitrendra Singh, Panel Lawyer
For Respondent No.2 Mr. Harshmander Rastogi, Advocate

Hon'ble Mr. Justice Prashant Kumar Mishra
Order On Board

14/11/2019

1. Heard.

2. The petitioners are Accountants working in the Rajiv Gandhi Shiksha Mission. They have prayed for quashment of the order dated 23.11.2006, whereby, their consolidated monthly pay @ Rs.8000/- has been withdrawn and instead thereof, consolidated monthly pay has been reduced to Rs.5200/-.

3. It is argued that the said withdrawal of the petitioners' consolidated pay has been directed without affording any opportunity of hearing to the petitioners, therefore, it is violative of the principles of natural justice.

4. The petitioners were earlier allowed consolidated pay of Rs.4800/- from 1.2.2001 to 19.8.2004. Thereafter, they were allowed Rs.8000/- per month by an order passed on 29.1.2005 making it effective from 19.8.2004. Subsequently, by the impugned order dated 23.11.2006, the consolidated monthly pay was reduced to Rs.5200/-. The respondents have placed before this Court a copy of the Circular of the Finance Department dated 13.1.2005, which finds mention in the impugned order, wherein, the Finance Department has directed that as against the pay-scale of the corresponding regular post of a contractual post, the consolidated monthly pay mentioned

against the particular pay scale shall be admissible to the person holding the post on contractual basis. The document Annexure R-2/1 is the minutes of the meeting of the Rajiv Gandhi Shiksha Mission held on 3.11.2006, wherein, while deciding Agenda No.2, it was directed that the contractual employees working under the Mission shall be paid monthly pay in terms of the Finance Department's Circular dated 13.1.2005. It was also decided that the officers, who have issued the earlier discrepant order, shall be proceeded departmentally. Subsequent upon this resolution dated 3.11.2006, the present impugned order was issued on 23.11.2006.

5. Having perused the papers, it appears, the Finance Department by an order dated 13.1.2005 had already issued directions that as against the pay scale of Rs.4000-100-6000/- admissible to any post in the State Government on regular basis, consolidated pay of Rs.5200/- shall be admissible to a candidate working on contract basis. Since pay scale of the Accountant falls within this slab of Rs.4000-100-6000/-, contractual Accountants working in the Rajiv Gandhi Shiksha Mission were entitled for consolidated monthly pay of Rs.5200/-. However, despite existence of this Circular of the Finance Department, Rajiv Gandhi Shiksha Mission issued an order on 29.1.2005 allowing consolidated monthly pay of Rs.8000/- to the Accountants working on contractual basis. This consolidated monthly pay scale was never sanctioned by the Finance Department, therefore, apparently it was an illegal benefit conferred on the

petitioners and other Accountants working elsewhere in the State.

6. The present writ petition has been preferred by few Accountants working in the Ambikapur District. No other Accountant working in the entire State has approached this Court attacking the order dated 23.11.2006. It is also worth mentioning that despite issuance of the order dated 23.11.2006, the Rajiv Gandhi Shiksha Mission has not passed any order directing recovery of the excess amount already paid to the petitioners.

7. Had it been a case of directing recovery of amount, this Court might have interfered only against the recovery part, but any amount which has been allowed contrary to the Finance Department's Circular should not be continued merely because some officers of the Rajiv Gandhi Shiksha Mission has issued a wrong order without considering the Finance Department's Circular.

8. Financial sanction of a particular pay scale is the most important administrative approval for allowing any pay scale to a Government Servant whether they are working on regular or contractual basis. In absence of financial approval, consolidated monthly pay of Rs.8000/- was wrongly allowed to the petitioners, withdrawal of which does not suffer from any illegality.

9. It is settled by the Supreme Court in the matter of **Chandi**

Prasad Uniyal and others Vs. **State of Uttarakhand and others, (2012) 8 SCC 417**, that if any pay scale is wrongly granted to a Government Servant, the same can be withdrawn subsequently.

10. Whether recovery of the benefits already paid to the employees is justified, is not a question fallen for consideration in this petition.

11. In view of the above, the writ petition *sans substance* is liable to be and is hereby dismissed.

Sd/-

(Prashant Kumar Mishra)

Judge

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