

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4585 of 2019

Khubiram Verma S/o Late Shri Mohan Lal Verma Aged About 66 Years Occupation - Retired Assistant, Under The Chhattisgarh State Warehousing Corporation Raipur, R/o Shyam Nagar Tilda, District - Raipur Chhattisgarh.

---- Petitioner(s)

Versus

1. Chhattisgarh State Warehousing Corporation, Through Managing Director, Chhattisgarh State Warehousing Corporation Head Officer, Awanti Vihar, Telibandha Raipur Chhattisgarh.
2. The Chairman Chhattisgarh State Warehousing Corporation Head Officer, Awanti Vihar, Telibandha Raipur Chhattisgarh.

---Respondents

For Petitioner	:	Shri Palash Tiwari, Advocate.
For Respondents	:	Shri BD Guru and Shri Anuroop Panda, Advocates.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/06/2019

1. The challenge in the present writ petition is to the order Annexure (P-1) dated 15.01.2018 whereby the respondents have initiated recovery proceedings against the petitioner for an amount of Rs. 2,61,897/-.
2. The contention of the petitioner is that the petitioner after his retirement from the service of the respondent Corporation was given a fresh appointment as a contractual employee vide Annexure P-3 dated 29.04.2016. According to the petitioner as per the terms of contract the petitioner had been paid salary uptill October, 2017 when he was working with the respondent as contractual employee. The contention of the petitioner is that subsequent to his contractual period being over, later on respondent vide the impugned order dated 15.01.2018 have passed an order initiating the recovery of Rs.

2,61,897/- from the petitioner. The respondent also have taken a decision for adjusting the said excess amount from the arrears of payment which was payable to petitioner and also from the retiral dues that he is entitled for. Contention of the petitioner is that he is not in any manner responsible for the alleged excess payment if any or for any wrongful salary that he has been paid by the respondent. Counsel for the petitioner submits that petitioner has never made any false representation or played fraud with the respondent in obtaining the same. He further submits that petitioner has been paid as per the contractual agreement in the management which clearly provides the petitioner of being entitled for the regular DA, HRA & CCA and which he has received for the period he has worked with the respondent corporation. This now cannot be recovered by the respondents as he has received what was agreed upon between the parties.

3. Counsel for the respondent submits that since engagement of petitioner was on contractual basis, he would not have had been entitled for these allowances which are otherwise payable to a regular employee and therefore department has initiated steps for recovering the amount which has been wrongly paid to the petitioner.
4. On a query being put to counsel for the State, he fairly concedes that petitioner infact has been paid in terms of his agreement/contract which was entered into between the petitioner and respondent corporation. He only tries to justify the action on the ground that petitioner was legally not entitled for those allowances which are otherwise payable to a regular employee.

5. All said and done, undisputedly the petitioner has been retained in employment on contractual basis by the respondent after his regular service coming to an end on superannuation. The respondent have entered into a contract with the petitioner. The contract subsequently envisaged certain provisions in respect of payment of salary and allowances. The petitioner undisputedly has been paid remuneration during the contract period in terms of contract agreement. Under the aforesaid admitted factual matrix of the case, this Court is of the firm view that respondent cannot hold that the amount paid to the petitioner as a remuneration was either contrary to the contract or wrongly paid to the petitioner rather it is a case where the remuneration paid to the petitioner was purely in terms of contract agreement. If at all, if the terms of contract was wrong, the respondent can only revoke the contract if the petitioner is still in service or else respondent would not be in a position to recover the said amount from the petitioner.
6. Given the facts and circumstances of the case, this Court is of the opinion that action on the part of the respondent in passing of the impugned order dated 15.01.2018 so far as petitioner is concerned is bad in law and the impugned order to the extent of initiating recovery proceedings against the petitioner stands set aside/quashed with consequences to follow.
7. With the aforesaid observation, the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge