

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6301 of 2019**

Arun Kumar Pandey S/o Shri Braj Bhushan Pandey Aged About 64 Years
R/o Village Pendra, Tahsil Pendra, District Bilaspur Chhattisgarh., District :
Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan, Atal Nagar Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Commissioner, Department Of Tribal Welfare, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. District Education Officer, Bilaspur District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
5. Block Education Officer, Block Pendra, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
6. Joint Director, Accounts, Treasury And Pension, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Yogendra Chaturvedi, Advocate
For State	:	Mr. Chandresh Shrivastava, Dy. AG along with Ms. Ishwari Ghritlahre, PL

Hon'ble Shri Justice P. Sam Koshy**Order on Board****21/08/2019**

1. The challenge in the present writ petition is to the order Annexure P-1 dated 19.12.2018 as well as the order dated 16.05.2019. Vide the said

impugned order respondents have taken a decision for recovery of excess payment that petitioner has been paid erroneously in course of compliance of direction given by this Court in WPS 1451/2012 disposed off on 09.04.2012.

2. Contention of the petitioner is that the impugned order (Annexure P-1) is bad for the reason that respondents have not granted the benefit to the petitioner in compliance of this Court's order, the same could not have been recovered from the petitioner at this belated stage. It is further contention of the petitioner that petitioner has retired from service on 30.06.2017 and at this juncture the recovery should not have been initiated and recovery order as such is bad in law in terms of the judgment of the Supreme Court in the case of ***"State of Punjab and others etc. vs. Rafiq Masih (White Washer) etc."*** reported in ***2015 AIR SCW 501***.
3. Having gone through the pleadings of the writ petition and also heard the contentions put forth by the petitioner what is admitted is the fact that the petitioner retired on 30.06.2017 as a Head Master under the respondents. Petitioner had filed the writ petition in the year 2012 registered as WPS No. 1451/2012. The writ petition was disposed off on 09.04.2012. The claim of the petitioner was for grant of regular pay scale w.e.f. initial date of appointment. In compliance of the said order by this Court the respondents granted benefit of regular pay scale from the initial date of appointment. However, it appears that petitioner has been granted regular pay scale even for the period during which he was undergoing training before appointment. Respondents have now found that petitioner would not be entitled for the regular salary for the period of training before appointment and have taken steps by issuance of the impugned order (Annexure P-1), Prima facie, this Court is of the opinion that the impugned order is bad to

the extent of same being issued in violation of principles of natural justice. Admittedly before issuance of the impugned order the petitioner was not given any opportunity of hearing. Neither was the petitioner served with an opportunity to defend himself.

4. It is settled position of law that before issuance of any order which has a adverse civil consequences, least that is expected opportunity of hearing/defence to the concerned employee. In the absence of any such steps taken by the respondents the impugned order Annexure P-1 deserves to be set aside/quashed on this ground alone so far as the petitioner is concerned. It is ordered that impugned order (Annexure P-1) stands set aside/quashed only on the ground of same being issued without granting an opportunity of hearing.
5. Respondents are directed to grant appropriate opportunity of hearing to the petitioner and thereafter if they intend to take steps for recovery they would be at liberty to pass appropriate orders. Considering the fact that petitioner already stands retired in 2017, respondents are expected to take appropriate steps if they intend to at the earliest. Meanwhile, except for the amount to be recovered the entire retiral dues payable to the petitioner should be released to the petitioner without any further delay.
6. Reserving the right of the respondents to act accordingly, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge