

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 6411 of 2019

1. Smt. Goma Mishra, W/o -Shri Sharad Mishra, Aged About 44 Years, Occupation - Assistant Sub Inspector (M) Working Under The Office Of Superintendent Of Police Dantewada, District: Dantewada, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Home Affairs And Finance, Police Department, Mahanadi Bhawan, Atal Nagar Mantralaya, Raipur Chhattisgarh
2. The Director General Of Police, Police Head Quarters, Atal Nagar, District : Raipur, Chhattisgarh
3. The Assistant Inspector General Of Police (Selection/Recruitment), Police Head Quarters, Atal Nagar, District : Raipur, Chhattisgarh
4. Superintendent Of Police, Dantewada, District : Dantewada, Chhattisgarh
5. The Joint Director, Treasury, Account And Pension Jagdalpur, District: Baster, Chhattisgarh

---Respondents

For Petitioner	:	Mr. Palash Tiwari, Advocate
For State	:	Ms. Sunita Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26.08.2019

1. The challenge in the present Writ Petition is to the order Annexure P-1 dated 08.08.2019. Vide the said order, the Respondent No. 4 has passed an order for recovering an amount of Rs. 49,187/- from the petitioner.

2. The facts of the case is that, the petitioner working as an Assistant Sub-Inspector (M) had filed a writ petition i.e, WPS No. 6998/2018 seeking for a direction to the respondents, so far as grant of adhoc pay increase which has been granted to other similarly placed persons. The said Writ Petition stood disposed off on 25.10.2018, whereby it was directed that the respondents shall verify the claim of the petitioner in terms of similar benefits granted to similarly placed persons and if it is found that, the petitioner is eligible then the petitioner be granted the said benefit forthwith.
3. In compliance to the said direction given in the aforesaid writ petition, the Respondent No. 4 seems to have passed an order on 07.08.2019 sanctioned on 24.12.2018 and the petitioner had got the benefit from January, 2019 onwards and the petitioner started receiving the Grade Pay of Rs. 4200/-.Vide the impugned order, it is recalled that the petitioner would be entitled for Grade Pay of only Rs. 2800/- vide order Annexure P-1 dated 08.08.2019.
4. The contention of the petitioner is that, the petitioner before issuance of said benefit to petitioner, the respondents have not given any opportunity of hearing to the petitioner and as such, the order is in violation of principles of natural justice.
5. He further submits that impugned order has been passed contrary to the benefits which the petitioner is otherwise entitled for, as is granted to other similarly placed persons and the respondents have not taken care to verify whether similar benefits have been extended to those similarly placed persons or not and thus, prayed for the quashment of the same.

6. The State Counsel, however, opposing the petition submits that, since the order of excess payment has been made in the very recent past and it can not be said to be a stale claim that the petitioner had received long back, which was now being taken back, calling for an interference. He further submits that the order Annexure P-1 very clearly speaks and shows the reasons, why the petitioner is not entitled for the Grade Pay of Rs. 4200/-.
7. Having heard the contention put-forth on either side and on perusal of record, what *prima-facie* appears is that before issuance of impugned order, the petitioner was not taken into confidence, inasmuch as the petitioner was not granted an opportunity of hearing as has been contended by the petitioner. The petitioner has not been given the opportunity to justify as to whether he would be entitled for the Grade Pay of Rs. 4200/- or whether he would be entitled for Rs. 2800/-.
8. It is by now, well settled principle of law that whenever an order is passed having an adverse civil consequence, the least that is required is an opportunity of hearing before withdrawing that, which was extended to the petitioner, the respondents should have granted an opportunity of hearing and thereafter should have passed an order, which in the instant case from the pleadings does not seem to have been done.
9. Considering the aforesaid facts, this Court is of the opinion that let the respondents grant an opportunity of hearing to the petitioner, so far as the entitlement of the petitioner of Grade Pay of Rs. 2800/- instead of Rs. 4200/- and after affording an opportunity of hearing, let the Respondent No. 4 pass a fresh order, keeping in view the

service regulations applicable. While passing the fresh order, the Respondent No. 4 would take note of the fact as to whether similarly placed persons have been extended the same benefit or not.

10. Till the Respondent No. 4 pass a fresh order after giving an opportunity of hearing to the petitioner, the respondents would stand restrained from giving effect to the impugned order Annexure P-1 dated 08.08.2019.
11. The present Writ Petition, accordingly stands allowed and disposed off.

**Sd/-
(P. Sam Koshy)
Judge**