NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 8499 of 2018

Akhtari Begam W/o Firoz Khan Aged About 63 Years R/o Lili Chowk, Dhal Pipal Tree, Chandu Kirana Stores, Purani Basti, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Commercial Tax Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Commissioner Commercial Tax, G.S.T. Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. Deputy Commissioner State, Office Of Commissioner, Commercial Tax G.S.T. Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. Assistant Commissioner Office Of G.S.T. Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
5. Drawing And Distribution Officer Office Of Commissioner, Commercial Tax, G.S.T. Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
6. Accountant General Kosh, Lekha And Pension, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
7. Senior Account Officer Nidhi-10, Office Of Accountant General Raipur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Shikhar Sharma, Advocate.
For State/Res. No. 1 to 5	:	Mr. Salim Kazi, Dy. AG
For Res. No. 6 & 7	:	Mr. Rajkumar Gupta, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/01/2019

1. The challenge in the present writ petition to the order Annexure (P-1) dated 31.8.2017. Vide the said order the respondent No. 6 have shown a negative balance of Rs. 1,14,816 in the G.P.F. Account of the petitioner which he has ordered for recovery and in turn the respondent No. 5 has passed an order Annexure (P-2) dated 31.10.2018 for recovering the same from the pension and gratuity payable to the petitioner.

2. The contention of the petitioner is that at the time of his retirement there was a positive balance of more than Rs. 64,000 in his G.P.F. account and as such present Annexure (P-1) issued by the respondent is not proper and justified. He futher submits that even if certain recoveries were to be made by the department since they have not been made the recoveries while the petitioner was in employment and they could not have done it after his retirement. He further submits that before issuance of negative balance, the petitioner has not been granted any opportunity of hearing to explain so far as the entitlement of G.P.F. account is concerned.

3. The counsel appearing for the respondents on the contrary submits that it appears that there is some withdrawals made by the petitioner from his G.P.F. Account and which has not been accounted by the employer and this was detected only while final settlement was being made, immediately thereafter the impugned order has been passed and therefore it cannot be said to be bad in law.

4. Having heard the contention put forth on either side and perusal of the records what is clearly reflected is that the employee stood retired from service on 31.8.2016. Employee retired from the post of Assistant Grade – I which is a Class-III post. The petitioner before the impugned order passed was never taken into confidence and informed about any negative balance in his G.P.F. Account.

5. Given the said facts and circumstances of the case, it is ordered that let the case of the petitioner be re scrutinized by the respondents No. 5 & 6 in the presence of the petitioner who shall make available all the records pertaining to G.P.F. Account before the respondents No. 5 & 6. Respondents No. 5 & 6 in turn shall also ask the employer that is respondent No. 2 to 4 under whom the petitioner was working at the time of his retirement to produce the entire details of the G.P.F. Account of the petitioner particularly in respect of the withdrawals that he has made from his G.P.F. Account. Respondents shall also give sufficient time to petitioner to appear before them in respect of his claim and only after taking him in confidence a fresh order shall be passed in respect of his G.P.F. Account is concerned. Let this exercise be conducted within a period of three months from the date of receipt of certified copy of this order. Till the case of the petitioner is not scrutinized a fresh as per the

directions given by this Court, it is ordered that not coercive steps shall be taken for recovering the amount shown as negative balance from the retiral dues payable to the petitioner.

Sd/-

(P. Sam Koshy)
Judge

Rohit