

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 137 of 2020

Manharan Lal Sahu S/o Late Shri Puran Lal Sahu Aged About 59 Years
Occupation Assistant Internal Account Examiner And Taxation Officer Under
The Office Of Janpad Panchayat Masturi Bilaspur District Bilaspur
Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat And Social Welfare Department , Mahanadi Bhawan, Atal Nagar Mantralaya, District Raipur Chhattisgarh.
2. The Director, Directorate Of Panchayat And Social Welfare Department , Indrawati Bhawan , Atal Nagar Mantralaya, District Raipur Chhattisgarh.
3. The Collector Bilaspur District Bilaspur Chhattisgarh.
4. The Joint Director Panchayat And Social Welfare Department Bilaspur District Bilaspur Chhattisgarh.
5. The Chief Executive Officer Jila Panchayat Bilaspur District Bilaspur Chhattisgarh.
6. The Chief Executive Officer Janpad Panchayat Masturi, District Bilaspur Chhattisgarh.
7. The Joint Director Treasury, Account And Pension Bilaspur , District Bilaspur Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Palash Tiwari, Advocate
For Respondents/State	:	Shri Ravish Verma, GA

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10/01/2020

1. Heard.
2. The challenge in this petition is to the notice dated 04.10.2019

(Annexure P-1) wherein a recovery has been sought for from the petitioner for the reason that he has been paid excess amount of Rs.4,91,015/- in between the period from 01/11/1998 to 31/12/2015.

3. It is contended that the petitioner is a Class-III employee and no fraud or misrepresentation has ever been committed by the petitioner to get the salary and it was after due verification the salary was paid. It is further contended that without giving any opportunity of hearing to the petitioner the impugned notice dated 04.10.2019 has been issued which has a civil consequences, therefore, the rules of natural justice were required to be followed. It is further contended that the law laid down in the case of ***State of Punjab and others Versus Rafiq Masih (White Washer) and others*** ***{{(2015)4 SCC 334}}*** would also be clearly applicable to the facts of this case and recovery from the Class-III employee cannot be made.
4. Without going into the merits of this case, prima facie it appears that the notice dated 04.10.2019 (Annexure P-1) was issued without giving opportunity of hearing and only the consent has been sought for after the recovery has been ascertained. In any case, when the recovery of the like nature is sought to be initiated then it has civil consequences. Certainly in this case the rules of natural justice are required to be followed. Prima facie perusal of the impugned notice dated 04.10.2019 shows that no opportunity of hearing was given to the petitioner and therefore, the said notice dated 04.10.2019 is required to be struck down. Accordingly, the notice dated 04.10.2019 (Annexure P-1) is set aside. However, the liberty is given to the respondent authorities that they may proceed to hold an enquiry before such recovery is made and the petitioner shall also have the liberty to canvas all his grievance in such proceeding.

5. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

gouri