

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1715 of 2020**

Rattu Ram Sethiya S/o Antu Ram Sethiya Aged About 70 Years
Retired Supervisor, Office Of The Block Medical Officer,
Lohandiguda, District Bastar, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, Nava Raipur, Atal Nagar, District Raipur, Chhattisgarh.
2. Accountant General Office Of The Accountant General, Chhattisgarh, Raipur, Chhattisgarh.
3. Chief Medical And Health Officer Jagdalpur, District Bastar, Chhattisgarh.
4. District Treasury Officer Jagdalpur, District Bastar, Chhattisgarh.
5. Block Medical Officer Community Health Centre, Lohandiguda, District Bastar, Chhattisgarh.

----Respondents

For Petitioner : Shri C. Jayant K. Rao, Advocate.

For Respondents/State : Shri Neeraj Pradhan, P.L.

For Respondent No.2 : Mr. R.K.Gupta, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

16/03/2020

Heard

1. Grievance of the petitioner is that the petitioner was retired as Supervisor on 28/02/2010. Subsequent to his retirement after seven years he received a letter/ notice of recovery dated 16/05/2017 (Annexure P-1) whereby a negative balance of Rs.2,14,791/- was sought to be recovered on the ground that excess payment has been made.
2. Learned counsel for the petitioner further submits that the petitioner was neither heard nor any enquiry was made before such recovery order was passed and as per the case of ***State of Punjab Vs.***

Rafiq Masih, 2015 (4) SCC 334, recovery from the retired person is not permissible, therefore, the recovery notice Annexure P-1 is bad in law.

3. Prima facie, it reflects that the petitioner, before such order of recovery, Annexure P-1, has not been given any opportunity of hearing. If the recovery order of like nature has a civil consequence then rule of natural justice is required to be followed. In absence to follow the rules of natural justice when the recovery has a civil consequence, it would be bad in law. The petitioner what he contends that the payment was justified can only be considered when the petitioner is heard before such recovery is made. Under the circumstances, since the recovery order has been made without giving any opportunity of hearing to the petitioner, the same is required to be set aside. Accordingly, the recovery order/notice dated 16/05/2017 (Annexure P-1) is set aside. Since the recovery notice was of 2017 and it is 2020, no further recovery shall be made after receipt of this order. The respondent No.2, however, shall be at liberty to hold an enquiry and thereafter pass the suitable orders and if it is found that no excess payment was made, recovered amount shall also be returned. Thereafter, the petitioner if aggrieved may avail the remedy, if so advised.
4. In view of the above, the writ petition is allowed to the above extent.

Sd/-

(Goutam Bhaduri)
JUDGE