

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 392 of 2014**

1. Rahul Dev Ramteke, S/o Puran Lal Ramteke Aged About 40 Years Teacher Panchayat, Higher Secondary School Chanapahri Block Ambagarh Chowki, Ps Ambagarh Chowki, Distt Rajnandgaon, Chhattisgarh
2. Hemrao Janbandhu S/o Ramchandra Janbandhu Aged About 37 Years Teacher Panchayat, Middle School Mangarola, Ps Chilhati, Distt Rajnandgaon, Chhattisgarh
3. Bulaki Ram Dewangan, S/o Ballu Ram Dewangan, Aged About 42 Years Teacher Panchayat, Girls Higher Secondary School Parsatola Block Ambagarh Chowki, Ps Ambagarh Chowki, Distt Rajnandgaon, Chhattisgarh

---- Petitioners**Versus**

1. State Of Chhattisgarh, S/o Through The Secretary Panchayat And Social Welfare Department, New Mantralaya, Raipur, Chhattisgarh
2. Joint Secretary Tribal And Social Welfare Deptt. Welfare Department, New Mantralaya, Raipur, Chhattisgarh
3. Block Education Officer Ambagarh Chowki, Distt Rajnandgaon, Chhattisgarh

---- Respondents

For Petitioners	:	Shri Ajay Shrivastava, Advocate
For Respondents/ State	:	Ms. Akanksha Jain, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****14/01/2020**

1. Heard.
2. The grievance of the petitioners is that the petitioners were initially appointed as Shiksha Karmi Grade-III in 1998 and were subsequently promoted to Shiksha Karmi Grade-II in the year 2006 by order of the State and were granted the stagnation allowance (gatirodh bhatta) as per

Annexure P-5 dated 17.05.2013. Learned counsel submits that by the circular dated 17.05.2013 it was directed that the teacher who have rendered more than 8 years of service shall be paid equivalent pay scale equal to that of the regular government employee and accordingly the petitioners were granted stagnation allowance of Rs. 600/- p.m. from June 2013. Subsequently, the order dated 3.12.2013 was served, where it was observed by the Block Education Officer, Ambagarh that no clear order exist by the State regarding to grant Rs. 600/- p.m. as stagnation allowance (gatirodh bhatta) which is paid to the petitioners, therefore, the said stagnation allowance which is paid from June 2013 to September 2013 would be recoverable. Subsequently, it is contended that it was recovered from petitioners without being heard. He further submits that in any case once the benefit has been granted to the petitioners who are class-III employees, the benefit cannot be withdrawn without giving any opportunity of hearing. Therefore the recovery amount may be returned back and the petitioners may be heard and thereafter the State may pass an order.

3. Learned State counsel would submit that the stagnation allowance which were paid for last 3 months from June, 2013 to September 2013 was not legal. Consequently, it was withdrawn and it would show that the petitioner has given an undertaking on 16.07.2013, 06.07.2013 & 09.07.2013 which are collectively filed as Annexure R-2, that in case any fault has been committed in calculating the pay scale then in such case the State would be within their right to recover the excess or faulty amount.
4. Perused the documents and heard learned counsel for the parties.
5. After hearing the parties, prima facie it shows that before passing such order of recovery the petitioners were not heard. In any case once the benefit has been granted about certain allowance then in case of recovery the petitioners were at least required to be heard. Without giving any opportunity

of hearing the rule of *audi alteram partem* is defeated specially when it has a civil consequence. Considering the facts that the recovery from June 2013 to September 2013 Rs. 600/- p.m. has already been recovered and considering the quantum, it is directed that the State shall conduct an post decisional enquiry, de-novo giving an opportunity to petitioners to canvas their justification and shall consider whether the said stagnation allowance has rightly been granted or not. In case, it is found that the amount of recovery has not been properly made then in such case the amount so recovered shall be returned to the petitioners. The said exercise shall be carried out within a period of 3 months from the date of receipt of a copy of this order.

6. With the aforesaid observation, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Jyoti