

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 3339 of 2021**

Smt. E. Walter, W/o Shri Sudhir Walter, Aged About 60 Years Presently Posted As Nursing Sister, Government Ayurved College, Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through, The Secretary, Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, District - Raipur, Chhattisgarh.
2. The Principal Secretary Department Of Finance Mahanadi Bhawan, Atal Nagar, District - Raipur, Chhattisgarh
3. The Superintendent, Government Ayurved University Hospital, Raipur Chhattisgarh District - Raipur, Chhattisgarh.
4. The Director Treasury Accounts And Pension, Indrawati Bhawan, Atal Nagar, Raipur, Chhattisgarh.
5. The Joint Director Treasury Accounts And Pension, Raipur, Chhattisgarh.
6. Drawing And Disbursement Officer, Raipur, Chhattisgarh.

----Respondents

For Petitioner	:	Ms. Juhi Jaiswal, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/07/2021**

1. The present writ petition has been filed assailing the show cause notice dated 04.06.2021, whereby the petitioner has been called upon to give an explanation, as to why recovery proceedings should not be initiated against an alleged erroneous fixation of pay and the resultant excess payment made to the petitioner who is in service.
2. The whole issue seems to be certain excess payment made to the petitioner on account of three advance increments allegedly

erroneously paid to the petitioner on account of they having acquired the qualification of decree/diploma in Nursing.

3. The present is a second round of litigation. The respondents had initially issued an order of recovery to the tune of Rs. 3,56,983/- vide order dated 07.08.2020. The same was subjected to challenge in WPS No. 714/2021. The said order was quashed primarily on the ground of an opportunity of hearing not being granted before passing of the recovery order. The right of the respondents-State was reserved to proceed further after giving a fair opportunity of hearing to the petitioner vide judgment dated 26.02.2021. It is pursuant to this that the present show cause notice that has been issued on 04.06.2021.
4. During the course of the hearing, it has been revealed that before issuance of the impugned order two writ petitions of similar nature came up for hearing before this High Court i.e. WPS Nos. 5654/2017 and 2849/2021. The two writ petitions were disposed of on 14.06.2021 and 24.06.2021 respectively. While deciding WPS No. 5654/2017 vide judgment dated 14.06.2021, it was found that there were certain correspondences, which were made between the State of Madhya Pradesh as also with the State of Chhattisgarh on the subject matter issue of grant of advance increments to Nurses who have obtained decree and diploma in Nursing and it was found that the Government of Chhattisgarh is yet to take a decision in the light of the inter-government and inter department communications made on the subject matter. The WPS No. 5654/2017 was accordingly disposed of on 14.06.2021 directing the respondents-State to take a decision preferably within a period of 4 months keeping in view the correspondences made between the Finance Department and Health

Department on the issue.

5. Subsequent to the disposal of WPS No. 5654/2017, yet another writ petition WPS No. 2849/2021 also came up for hearing on 24.06.2021. in the light of the aforementioned order dated 14.06.2021, the said writ petition also was disposed of awaiting a decision of the State Government in this regard and in both these writ petitions, while the writ petitions were disposed of, this Court had restrained the respondents from initiating further with the impugned order of recovery against the petitioners in those writ petitions.
6. Today, when the matter is taken up for hearing, the learned State counsel submits that the Government is yet to take a decision and it is expected that a decision shall be taken at the earliest. In view of the fact that a decision is pending consideration at the State Government level on the subject matter issue, this Court is of the view that the present writ petition also in the given facts can be disposed of directing the respondents to defer the proceedings on the show cause notice till a decision is taken at the government level and to proceed further only in the light of the decision, which the government would be taking and the petitioner simultaneously would also be at liberty to challenge the said outcome of the State Government and any further steps which the respondents initiate against the petitioner with which if at all the petitioner is aggrieved.
7. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge