

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.4881 OF 2019

Keshav s/o Dauji Bhong,
aged about 78 years,
Occ. No work, residing
at Durgapur, Jamani, Jamni
Yavatmal Taluka Zari Jamani,
Maharashtra, District Yavatmal
-vs-

... Petitioner

1. The State of Maharashtra,
Through its Chief Secretary,
General Administration Department,
Mantralaya, Mumbai 400 032
2. The Deputy Director of Education,
Amravati Division, District Amravati
3. The Education Officer (Primary)
Zilla Parishad, Yavatmal
4. Zilla Parishad
Through its Chief Officer,
Taluka Zari, District Yavatmal
5. Block Development Officer,
Panchayat Samiti,
Taluka Zari, District Yavatmal

... Respondents

Shri Manish Shukla, Advocate for petitioner.
Shri A. A. Madiwale, Assistant Government Pleader for respondent Nos.1 and 2.
Shri B. N. Jaipurkar, Advocate for respondent No.5.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.
DATE : August 03, 2023

Oral Judgment : (Per: A. S. Chandurkar, J.)

1. Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

The petitioner was serving as an Assistant Teacher (Primary) in a school run by Zilla Parishad, Yavatmal. He retired on attaining the age of superannuation on

31/05/1999. He started receiving pensionary benefits from June 1999. However, the Zilla Parishad sought to deduct an amount of Rs.1000/- per month from his pensionary benefits from August 2015 to July 2018, as a result of which Rs.98,930/- have been recovered. The alleged over payment is stated to be from June 2011.

2. It is a common ground that no notice was given to the petitioner prior to effecting such deduction. Without any such notice, the Zilla Parishad proceeded to recover the amount of Rs.98,930/- within a period of three years. On this short ground that the recovery effected is illegal and bad in law, the action is liable to be set aside. Accordingly the following order is passed :

- (i) The action of recovery of amount of Rs.98,930/- effected by the Zilla Parishad, Yavatmal between August 2015 to June 2018 is set aside as being bad in law.
- (ii) The Zilla Parishad, Yavatmal shall within a period of six weeks from today refund the aforesaid amount to the petitioner failing which on expiry of six weeks, said amount would carry interest at the rate of 5% per annum.
- (iii) The Zilla Parishad is at liberty to take appropriate steps in accordance with law if it is of the opinion that there has been any over payment to the petitioner.
- (iv) It is made clear that we have not expressed any opinion either on the entitlement of the Zilla Parishad to undertake such recovery or the rights of the petitioner to retain the amount in question. All points in that regard are kept open.

3. Rule is made absolute in aforesaid terms with no order as to costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)