IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 2nd OF FEBRUARY, 2024

WRIT PETITION No. 9176 of 2023

BETWEEN:-

MALKHAN SINGH S/O RAN SAJIVAN BHADORIYA, AGE: 63 YEARS, OCCUPATION: RETIRED, ADDRESS: 173, TAPESHWARI BAGH, INDORE, DISTRICT INDORE (MADHYA PRADESH)

.....PETITIONER

(BY SHRI PRATAP SINGH CHAUHAN - ADVOCATE.)

AND

1. **THE STATE OF MADHYA PRADESH, THROUGH THE PRINCIPAL SECRETARY TO THE GOVERNMENT OF MADHYA PRADESH, DEPARTMENT OF HOME (POLICE), VALLABH BHAWAN, MANTRALAYA, BHOPAL, DISTRICT BHOPAL. (MADHYA PRADESH)**

2. **THE DIRECTORATE OF GENERAL OF POLICE, POLICE HEADQUARTERS, JAHAGIRABAD, BHOPAL (MADHYA PRADESH)**

3. **THE SUPERINTENDENT OF POLICE, (HEADQUARTERS) DISTRICT INDORE, RANI SARAI, R.N.T. ROAD, INDORE (MADHYA PRADESH)**

4. **THE DIVISIONAL PENSION OFFICER, INDORE DIVISION, COLLECTORATE CAMPUS, MOTI TABELA, INDORE (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI SUDHANSHU VYAS - ADVOCATE APPEARING ON BEHALF OF ADVOCATE GENERAL.)

This petition coming on for admission this day, the court passed the following:

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ORDER

The petitioner has filed this present petition under Article 226 of Constitution of India challenging order dated 05.09.2022 (Annexure P/1) whereby, respondent No.3 has directed to recover an amount of Rs.4,17,209/- (rupees four lakhs seventeen thousand two hundred nine only) on account of excess payment made to him along with interest thereon to the rune of Rs.86,061/- (rupees eighty six thousand sixty one only), in total Rs.5,03,270/- (rupees five lakhs three thousand two hundred seventy only) from his retiral dues.

2. Learned counsel for the petitioner has submitted that he is not assailing the recovery of the principal amount, i.e. Rs.4,17,209/- (rupees four lakhs seventeen thousand two hundred nine only), but he is challenging only the recovery of interest part, because he was not informed about such recovery, during his entire service career, otherwise he would have returned the same.

3. In support of his submissions, learned counsel for the petitioner has relied upon the order passed by a Coordinate Bench of this Court in the case of **Rajendra Bhawsar** v. **State of Madhya Pradesh and others** (**Writ Petition No.826 of 2017**) vide order dated **13.09.2017**. Thus, it is submitted that the aforesaid order would also be applicable in the present case also.

4. Learned counsel for the respondent - State, on the other hand, has opposed the prayer, however, it is not denied that the order of the Writ Court passed in the case of Rajendra Bhawsar (supra) has been challenged by the State of Madhya Pradesh before the Division Bench in **Writ Appeal No.120/2018** which was dismissed on **06.08.2018**.

5. It is not disputed that in the wrong fixation of pay, the petitioner was not responsible. The excess payment made to the petitioner can be recovered, but

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the interest part cannot be recovered, as he was not responsible.

6. Having regard to the submissions made by the learned counsel for the parties, the present petition stands allowed and it is directed that the decision rendered in the case of Rajendra Bhawsar (supra) will apply *mutatis mutandis* in the present case also.

7. In view of the above, the impugned order, so far as it relates to recovery of interest amount, is hereby quashed. The respondents are directed to refund the amount of interest (if already recovered) within a period of sixty days from the date of receipt of certified copy of this order.

With the aforesaid, this petition stands disposed of.

Certified copy, as per rules.

(VIVEK RUSIA)
JUDGE

rcp

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