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**(2019) 08 CHH CK 0155**

**Chhattisgarh High Court**

**Case No:** Writ Petition (S) No. . 4523 Of 2019

Ashfaque Ahmad Siddiqui

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

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**Date of Decision:** Aug. 22, 2019

**Hon'ble Judges:** P. Sam Koshy, J

**Bench:** Single Bench

**Advocate:** Bharat Rajput, Raj Kumar Gupta, P. R. Patankar

**Final Decision:** Disposed Of

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### **Judgement**

P. Sam Koshy, J

1. The challenge in the present writ petition is to the action on the part of the respondents in initiating recovery from the monthly pension which the petitioner is getting to the tune of Rs. 20,000/-.

2. According to the petitioner respondents were paying regular pension to the petitioner, however abruptly now vide Annexure P-2 dated 23.05.2019

they have passed an order initiating recovery of Rs. 1,28,007/- from the pension of the petitioner which was allegedly paid in excess to the petitioner.

The said amount has been ordered to be recovered from the monthly pension by making deductions at the rate of Rs. 10,000/- per month in addition to

the Rs. 11,637/- which was deductible from the pension of the petitioner. Thus, more than Rs. 21,000/- is being deducted from the petitioner's pension

which is under challenge.

3. Counsel appearing for the State Bank of India on instructions having filed a detailed reply. He submits that the petitioner on the date of retirement

i.e. on 30.09.2017 had commuted a portion of his pension and accordingly he was paid an amount of Rs. 10,97,881/- This amount was to be adjusted in a span of 15 years by way of deductions to be made from his monthly pension at the rate of 11,637 w.e.f. 01.05.2018 onwards. According to the respondent Bank the said deduction of Rs. 11,637, was inadvertently not made from the pension payable to the petitioner during the period from May, 2018 to April, 2019 which when detected by the department on receipt of revised PPO and as such the petitioner has been paid an excess amount of Rs. 1,28,007/-. It is this amount which has been ordered to be adjusted from the monthly pension payable to the petitioner at the rate of 10,000/- per month.

4. The petitioner on receipt of reply from the department and on verifying the same admits the fact that he had received commutation on retirement in September, 2017. when the commutation of pension was admitted, the adjustment of the same is inevitable. The petitioner prayed that the deductions made at the rate of 11,637 from the pension payable to the petitioner be made prospective instead of recovering. If the department or the respondent Bank could not start recovery of the commutation of pension from the monthly pension payable to the petitioner, this does not mean that petitioner is entitled for the said amount. Department has only now on finding the error initiated steps for firstly recovering the excess amount paid and for making regular deductions as per revised PPO received from the employer.

5. Counsel for the parties submit that petitioner is as on date getting a monthly pension of about Rs. 48,412/- of which there has to be deductions made of Rs. 11,637/- against commutation of pension that was made. Which brings the pension amount to 36,775/-, of which also if the bank now makes a recovery of Rs. 10,000 as per month that would reduce monthly pension of an amount of Rs. 26,775/- which in the opinion of this Court would be too excessive to be recovered at this stage.

6. Considering the fact that petitioner has retired recently in September, 2017 and deductions were to be made only from May, 2018, this Court is of the opinion that ends of justice would meet if the excess amount is adjusted from the monthly pension payable to the petitioner by recovering an

amount of Rs. 5000/- instead of Rs. 10,000/- which has been ordered vide Annexure P-2 dated 23.05.2019. Thus, total adjustment which respondent

Bank would be making would be an amount of Rs. 16,637/- instead of 21,637/-.

7. It is made clear after the adjustment of Rs. 1,28,007/- the respondents are expected to restore the position of the petitioner by only deducting

monthly amount to be deducted on the commutation amount as per the revised PPO.

8. With the aforesaid observations, the present writ petition stands disposed of.