

Hurdanand Panigrahi Vs State Of Chhattisgarh And Ors

Court: Chhattisgarh High Court

Date of Decision: Sept. 5, 2018

Hon'ble Judges: P. Sam Koshy, J

Bench: Single Bench

Advocate: CJK Rao, Arvind Dubey, Raj Kumar Gupta

Final Decision: Allowed/Disposed Of

Judgement

P. Sam Koshy, J

1. The grievance of the petitioner is the issuance of the impugned order dated 31.05.2017 (Annexure P/1) which is a recovery order from the

petitioner to the tune of Rs.3,32,478/- on account of certain withdrawals made by the petitioner from his GPF account.

2. The petitioner in the instant case had retired from the post of Headmaster on 30.11.2016. The petitioner's retiral dues have already been settled. It

is now that the respondents have issued with the impugned recovery notice.

3. The counsel for the petitioner submits that the said recovery notice is bad in law for the reason that it is in violation of the ratio of law laid down by

the Supreme Court in case of State of Punjab Vs. Rafiq Masih, 2015 (4)SCC 33.4 According to him, since the petitioner has already retired from

service two years back, the subsequent recovery notice is impermissible and therefore, the impugned notice deserves to be set aside.

4. The respondents however opposing the petition submits that the impugned order reflects the recovery notice to be on account of certain

withdrawals made by the petitioner from his GPF account and which has not been properly accounted and when it was detected, the impugned order

has been passed and as such there cannot be any fault to the said notice of recovery.

5. Given the aforesaid facts and circumstances of the case, considering the totality of the submissions made what reflects from the impugned order is

that the recovery was for an amount which allegedly has already been withdrawn by the petitioner on an earlier occasion which was liable to be

adjusted while the settlement was to be made on his retirement. For want of proper entry, the petitioner has got certain advantage.

6. Indisputably, in case if the petitioner has already made withdrawal from his GPF account and that there are sufficient proof, the petitioner would not

be entitled for double payment of the same amount. However, before issuance of the impugned notice of recovery, the respondents have not issued

any show cause notice, nor they have taken the petitioner into confidence, nor any explanation was sought for. The impugned notice also does not

disclose the details of periodical withdrawals which have been made by the petitioner.

7. Given the aforesaid facts and circumstances of the case, this court is of the opinion that the writ petition deserves to be and is accordingly allowed.

The impugned notice of recovery dated 31.05.2017 is therefore set aside.

8. The respondents are directed to call upon the petitioner by issuing a notice brining to his knowledge about the periodical withdrawals that he has

made, to which the petitioner would have the liberty of submitting his explanation. Thereafter the respondents No.2&4 are directed to verify the

submissions made by the petitioner and tally the same with the GPF account maintained by the employer as well as by the office of Accountant

General and thereafter pass an appropriate order.

9. It is made clear that in case if it is found that the petitioner has made certain withdrawals while in service and which is not accounted for, the

petitioner would be liable for recovery. If not, the respondents would be restrained from making any recovery from the retiral dues payable to the

petitioner.

10. The writ petition accordingly stands allowed and disposed of.