



2025:CGHC:39762

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1809 of 2019

1 - Shesh Kumar Kshatri S/o Dhruv Kumar Kshatri Aged About 61 Years R/o House No. 509 Street No. 4, Smriti Nagar Bhilai District - Durg Chhattisgarh., District : Durg, Chhattisgarh ... **Petitioner**

versus

- 1 - State Of Chhattisgarh Through Its Secretary, Chhattisgarh Forest Development Corporation Limited Officers Complex Block - 7, Sector 29, Naya Raipur, Raipur Chhattisgarh.
- 2 - Managing Director Chhattisgarh Forest Development Corporation Limited Officers Complex Block - 7, Sector 29, Naya Raipur, Raipur Chhattisgarh.
- 3 - Regional General Manager Chhattisgarh Forest Development Corporation Limited Raipur Chhattisgarh.
- 4 - Divisional Manager Kawardha Planning Commission, Chhattisgarh Forest Development Corporation Limited Kawardha Chhattisgarh.

... **Respondents**

For Petitioner	:	Ms. Priyanka Rai, Advocate on behalf of Mr. Abhishek Thakur, Advocate
For State/Respondent No.1	:	Mr. Ritesh Giri, PL
For Respondents No.2 to 4	:	Mr. A.S. Kachhawaha, Advocate

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Order on Board

08/08/2025

1. With the consent of learned counsel for both the parties, the matter is heard finally.
2. This writ petition is preferred by petitioner seeking following reliefs:-
 - “10.1 It is prayed that this Hon'ble Court may kindly be pleased to call for the entire records concerning the case of the petitioners from the possession of the respondents for its kind perusal.
 - 10.2 That, this Hon'ble Court may kindly be pleased to issue an appropriate writ/order/direction quashing the impugned notice dated 19.12.2018 (Annexure P/1 & P/2).
 - 10.3 Any other relief/ reliefs which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also kindly be granted.”
3. Facts of the case, in a nutshell, are that petitioner was initially appointed on the post of Field Assistant, in the service of the respondent Nigam/ corporation, which he joined on 16.5.1977, thereafter, his service was confirmed on 12.4.1990 with effect from 01.4.1988. Subsequently, petitioner was promoted to the post of Project Ranger vide order dated 29.3.2005. The petitioner further was posted as incharge of the Deputy Divisional Manager, Kawardha, in the year 2016-2017 and after attaining the age of superannuation, he retired from service on 31.7.2018. Thereafter, recovery orders dated 19.12.2018 (Annexure P/1 & P/2) for recovery of Rs.74,124/- and Rs.16,309/- respectively, were issued against the petitioner without serving any notice or providing any opportunity of hearing to him.

Against the said recovery orders, the petitioner has filed the instant petition seeking the reliefs as mentioned in the opening paragraph of this order.

4. Learned counsel for the petitioner submits that petitioner retired from service after completion of unblemished service on 31.7.2018 and after retirement without serving any notice and without providing any due opportunity of hearing to him, recovery orders (Annexure P/1 & P/2) have been passed for recovery of Rs.74,124/- and Rs.16,309/- respectively; alleging therein that he misused funds of one head to other head. She further submits that it is not allegation of respondents that petitioner misappropriated the said amounts, rather only allegation is that he utilized the funds in different head. She next submits that, if there was any misconduct then, due opportunity of hearing ought to have been provided to the petitioner and, after conducting departmental enquiry, order may be passed, but, without going through any such proceeding, impugned recovery orders have been passed, that too after retirement of the petitioner, hence, impugned orders are liable to be set-aside in light of judgment rendered by the Hon'ble Apex Court, in the case of **State of Punjab & Ors. vs. Rafiq Masih (White Washer)** reported in **[(2015) 4 SCC 334]**.
5. Respondents No. 2 to 4, who are main contesting party in the instant writ petition, have filed reply. Learned counsel appearing for respondents No. 2 to 4 while referring to reply, submits that in an audit report of 2017, it was found that monthly demands of funds made in month of April, 2017 was stayed, but, the same was released by the petitioner under the irrigation and other contingency head and the said amount of Rs.65,236/- was released by him without permission of the

headquarters, whereas, the aforesaid amount was sanctioned from the headquarters for a particular work, as such, it could not be utilized in other heads. Thus, petitioner has clearly disobeyed the order of headquarters. Learned counsel further submits that because of aforesaid misconduct of the petitioner, the Divisional Manager of Kawardha, Project Division issued a letter dated 21.9.2017 (Annexure R-2/4) to the petitioner to deposit the deviated amount of Rs.65,236/-, but the said notice was not received by the petitioner, which was informed to the Higher Officials. Thereafter, vide letter dated 12.12.2018 (Annexure R-2/7), a recovery notice was issued against the petitioner mentioning therein that instead of using the sanctioned amount for the payment of labour for various work, it was used for grass cutting and irrigation purpose. Thus, the petitioner had deviated and misused the amount without permission of the Higher Officials, therefore, order passed against the petitioner is well within the jurisdiction of the respondent authority. Hence, the instant writ petition is liable to be set aside.

6. State has also filed its reply. Learned State counsel referring to his reply extended his support to the contention made by learned counsel for the respondents No.2 to 4.
7. I have considered the facts of the case and taken into consideration submission putforth by both the parties and perused the record with utmost circumspection.
8. Perusal of impugned recovery orders (Annexure P/1 & P/2) shows that they were issued against petitioner, on the ground that, while working as the Deputy Divisional Manager, Kawardha, he misused the amount of one head to other head, without permission of the Higher Officials.

Thus, case of respondent is not that, petitioner has misappropriated the amount, rather case is only that without permission he used the amount sanctioned to him in other head. In such situation, respondents ought to have conducted disciplinary action against petitioner and after providing due opportunity of hearing, if it is found that, he is guilty of alleged misconduct, then appropriate order could have been passed.

9. It is further apt to be noted here that as per the reply of the respondents 2 to 4, alleged misconduct was committed by the petitioner in the year 2017, but, no action was taken against him at that time, rather, impugned recovery orders were passed against him after his retirement. Further, allegation does not seem to be of misappropriation of amount, as petitioner has used the said amount in other head i.e., for grass cutting and irrigation purpose, therefore, this Court arrives at the conclusion that after retirement of petitioner, if recovery is made from him, it would be iniquitous and harsh also for him, particularly, when no appropriate proceeding was initiated against the petitioner and without providing due opportunity of hearing, impugned recovery orders have been passed without following principles of natural justice, hence, in the opinion of this Court, both the impugned recovery orders dated 19.12.2018 (Annexure P1 & P2) are liable to be quashed.

10. Accordingly, the writ petition is allowed and the impugned recovery orders (Annexure P1 & P2) are hereby quashed.

11. In view of above, pending IA(s), if any, stands disposed of. No order as to cost(s).

SD/-

(Naresh Kumar Chandravanshi)
JUDGE

Ayushi