

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WPS No. 6150 of 2023

- Murari Yadav S/o Late Chhoteram Yadav Aged About 61 Years Resident of Dhangar Dipa, Shankar Nagar, Raigarh, District - Raigarh (C.G.)

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Secretary, Higher Education, Technical Education, Science And Technology Department, Mahanadi Bhawan, Mantralaya, New Raipur (C.G.)
2. The Director Kirodimal Institute of Technology, Gadhumariya - Raigarh, District - Raigarh (C.G.)
3. The Principal Kirodimal Institute of Technology, Gadhumariya - Raigarh, District - Raigarh (C.G.)
4. The Labour Commissioner Raigarh, District - Raigarh (C.G.)
5. The Collector Raigarh, District - Raigarh (C.G.).

---- Respondents

07-09-2023	Ms. RV Ram Rajwade, Advocate for the petitioner. Mr. Kapil Maini, PL for the State/respondent Nos.1 & 5. Heard on admission as also on IA No.1, application for grant of interim relief. Issue notice to the respondents. Mr. Kapil Maini accepts notice on behalf of respondent Nos.1 & 5, hence issuance of notice to this respondents is not required. He prays for and is granted four weeks' time to file reply. Issue notice to respondent Nos.2 to 4. PF be paid within ten days. Learned counsel for petitioner submits that petitioner was working as 'Peon' at Kirodimal Institute of Technology, Gadhumariya-Raigarh, which was a

Government aided institution, Date of Birth of petitioner is 25.08.1961. As per notification dated 21.09.1998 issued by State Government, superannuation of Government employee has been enhanced from 60 years to 62 years. As petitioner has completed 62 years of age on 25.08.2023 and was working as Government aided institution, the date of his superannuation would be 25.08.2023, i.e, after completion of 62 years of age, but respondent No.2 vide order Annexure P-1 dated 25.03.2023 superannuated the petitioner from the service on completion of 60 years, with retrospective effect from 31.08.2021. Order/letter Annexure P-2 dated 27.03.2023 has also been issued by respondent No.2, for recovery of Rs.60,022/- mentioning therein that excess payment has been made to petitioner. Petitioner without giving any opportunity of hearing retired from the service on back date. He contended that in view of decision of Hon'ble Supreme Court in case of **State of Punjab & others Vs. Rafiq Masih (White Washer)** reported in **2015 (4) 334**, excess payment if any made to the retired employee, recovery would be impermissible.

Considering entire facts and circumstances of the case, submission of counsel for petitioner, decision of Hon'ble Supreme Court in case of **Rafiq Masih** (Supra), it is directed that recovery order/letter dated 27.03.2023 (Annexure P-2) shall remain suspended till the next date of hearing.

List this case after four weeks.

CC as per rules.

Sd/-
(Arvind Singh Chandel)
Judge