

(2020) 09 MP CK 0018

In the Madhya Pradesh High Court

Case No : Writ Petition No. 12825 Of 2020

Bharat Kumar Nagar

APPELLANT

Vs

State of M.P. And Others

RESPONDENT

Date of Decision : 03-09-2020

Acts Referred:

Citation : (2020) 09 MP CK 0018

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : L.C. Patne, Pallavi Khare

Final Decision : Disposed Of

Judgement

By this writ petition, the petitioner who is working with the respondents has partially challenged the order dated 15/11/2006 whereby recovery of a sum of Rs.5,39,827/- has been directed. This amount includes the principal amount of Rs.4,15,921/- and the remaining amount is the interest amount.

A limited submission of counsel for the petitioner is that the excess payment was made to the petitioner not on account of any misrepresentation or fraud by the petitioner, therefore, the interest cannot be charged. In this regard, counsel for the petitioner has placed reliance upon the order dated 15/07/2020 passed in WP No.9768/2020 in the case of Shankarlal Sharma Vs. State of M.P. and others and has submitted that the said writ petitioner was also identically placed as his name was included in the same impugned order of recovery, therefore, the petitioner is also entitled for the same benefit.

Learned counsel for the State has not disputed that the identical writ petitions have been partially allowed.

The coordinate Bench of this Court in WP No.9768/2020 had passed the following order:-

"Parties through their counsel.

The petitioner before this Court has filed this present petition being aggrieved with the recovery ordered by the respondents.

Learned counsel for the petitioner has argued before this Court that the petitioner is not aggrieved so far as the principal amount is being recovered from the petitioner, however, he is aggrieved only in respect of interest component.

Learned counsel for the petitioner has drawn the attention of this Court towards the judgment delivered in the case of Rajendra Bhawsar v/s The State of Madhya Pradesh & Others (W.P. No.826/2017) and the co-ordinate Bench of this Court has quashed the recovery in respect of the interest component only.

A writ appeal was also preferred in the matter i.e.

W.A. No.120/2018 (The State of Madhya Pradesh & Others v/s Rajendra Bhawsar) and the Division Bench of this Court has upheld the judgment delivered by the learned Single Judge, meaning thereby, the recovery in respect of the interest component has been quashed.

Learned Government Advocate for the respondents / State has not disputed the aforesaid facts.

This Court, after hearing learned counsel for the parties is of the considered opinion that the present writ petition deserves to be allowed and is accordingly, partly allowed. The respondent shall be free to recover the principal amount. It is further made clear that there will be no recovery in respect of the interest component. In case, the petitioner attains the age of superannuation, the respondents shall be free to recover the amount from his terminal dues.

With the aforesaid, the present writ petition stands partly allowed.

It is needless to mention that in case, certified copy is not available due to some technical reason, the order uploaded on the website of the High Court shall be treated as certified copy for all purposes and the counsel shall be free to obtain certified copy later on as and when facilities are made available to him."

Since the present case stands on the same footing, therefore, the present writ petition is also disposed off on the same terms by holding that the direction issued in the case of Shankarlal Sharma (supra) will apply mutatis mutandis in the present case also.

C.c. as per rules.