(2026) 03 MP CK 0834

In the Madhya Pradesh High Court, Jabalpur Bench

Case No : Writ Petition No. 21855 Of 2024

Dr. Lalita Gupta APPELLANT

Vs

State Of Madhya Pradesh And Others RESPONDENT

Date of Decision : 05-03-2026

Acts Referred:

Constitution Of India, 1950 — Article 226
Madhya Pradesh Civil Services (Pension) Rules, 1976 — Rule 57, 58, 59, 64, 74

Citation : (2026) 03 MP CK 0834

Hon'ble Judges : Vishal Dhagat, J

Bench : Single Bench

Advocate : Rohtash Babu Patel, Kanak Gaharwar

Final Decision : Disposed Of

Judgement

Vishal Dhagat, J

1. Petitioner has filed this writ petition under Article 226 of the Constitution of India making a prayer to quash the order dated 10.01.2024 contained in Annexure P/1.

2. Counsel appearing for the petitioner submitted that recovery is being made from the petitioner for excess amount paid. It is submitted that as per Circular dated 20.08.2013, petitioner was granted senior scale from 26.08.2008. Financial benefit was given from 26.08.2008. Excess amount has been paid to petitioner between 26.08.2008 to 31.12.2015. It is submitted that Apex Court in case of Medical Officers Association Vs. The State of M.P. and others, SLP (C) No. 2245/2019, has allowed similar petitions, wherein recovery of excess amount paid pursuant to the circular dated 23.05.2009 to 30.05.2012 was quashed. Only recovery part was stayed and for rest of the purposes i.e. for pay fixation and pension, respondents were given liberty to pass orders. It is also submitted that case of the petitioner is also covered.

3. Government Advocate appearing for State opposed the petition.

4. Heard learned counsel for the parties.

5. Impugned order of recovery was passed on 10.01.2024. Petitioner had taken voluntary retirement from service on 31.10.2016. Orders of recovery was passed after lapse of 8 years from date of retirement. State Government, Department of Finance, has issued Circular bearing No. F 9-3/2015/Rule/Four, Bhopal dated 29.06.2015 and Circular bearing No. F 9-3/2015/Rule/Four, Bhopal dated 08.11.2017, wherein specific direction has been given that pension and gratuity cases are to be finalized 24 months before retirement, as laid down in Rules 57 and 58 of Madhya Pradesh Civil Services (Pension) Rules, 1976. Services of an employee is to be verified within such time and if it is not done, then services is to be verified under Rule 59 of Madhya Pradesh Civil Services (Pension) Rules, 1976. If pension and gratuity cases cannot be resolved 15 days prior to retirement, then under Rule 74, provisional pension and gratuity is to be paid. In cases of recovery, action shall be concluded one month before retirement. In cases of departmental enquiry or judicial proceedings in Court, Rule 64 is applicable and provisional pension is to be issued. Circular has been issued that aforesaid provisions are to be strictly followed. It is the responsibility of Head of Department to issue NOC regarding no pendency of departmental enquiry or judicial proceedings by date of superannuation and if such certificate has not been issued one month post retirement, then it is to be assumed that there is no demand or enquiry pending against a Government servant. It is also laid down that cases for payment of provident fund is to be forwarded to AGMP four months before retirement when contribution to provident fund stops. All pension cases are to be examined bi-annually each year on 1st of July and 31st of December.

6. Apex Court in para 18 of judgment passed in case of State of Punjab and others vs Rafiq Masih (White Washer) and others, reported in (2015) 4 SCC 334 has held as under :

"18. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."

7. Apex Court has also held in case of Rafiq Masih (supra) that after retirement, more than 5 years' recovery shall not be made from the employees, as they are put in iniquitous position.

8. In view of aforesaid facts and circumstances of the case, it is found that impugned order of recovery, which is passed 8 years after retirement, is bad in law. Procedure laid down in Rules 57 and 58 of Madhya Pradesh Civil Services (Pension) Rules, 1976, and Circulars of State Government dated 29.06.2015 and 08.11.2017 were totally ignored. Accordingly, impugned order dated 10.01.2024 (Annexure P/1) passed by respondent No.3 is quashed. Amount of Rs. 4,38,495/- deposited by petitioner be returned to her within a period of 30 days.

9. Petition is disposed off.

