
(2016) 02 MP CK 0081

In the Madhya Pradesh High Court

Case No : Review Petition No. 134 of 2016

Kashi Yadav

APPELLANT

Vs

State of M.P

RESPONDENT

Date of Decision : 26-02-2016

Acts Referred:

Citation : (2016) 1 MPWN 274

Hon'ble Judges : Sanjay Yadav, J.

Bench : Single Bench

Advocate : A.K. Tiwari, Advocate, for the Appellant; S. Chadar, Panel Lawyer, for the Respondent

Final Decision : Dismissed

Judgement

Sanjay Yadav, J.—Placing reliance upon the decision by the Supreme Court in the case of State of Punjab v. Rafiq Masih (White Washer) 2015 (1) MPHT 130 (SC) and more particularly the verdict in paragraph 12, learned counsel for the petitioner seeks review of order dated 08.01.2016 passed in Writ Petition No. 13699/2010.

2. In Rafiq Masih (supra), Hon'ble Supreme Court, while dwelling upon the issue in respect of Government employee who have been mistakenly made payment and has been subjected to the recovery thereof, was pleased to hold :

"12. 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."

3. Whereas, in the present case the employee had over drawn an amount of Rs.5,72,439/- from the GPF account and being a case of over drawal was required to deposit the same. Thus, being not a case of the mistaken payment made by the employer, the petitioner herein is not benefited from the decision in Rafiq Masih (supra) as would entitle him to seek review of order dated 08.01.2016 passed in Writ Petition : 13699/2010.

4. No other grounds having been raised, this Court does not find any error apparent on the face of record as would warrant review of order dated 08.01.2016 passed in Writ Petition No. 13699/2010.

5. Consequently, review petition stands dismissed.