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(2012) 10 SHI CK 0026

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1208 of 2011-B

Moti Lal — APPELLANT

Vs

State of Himachal Pradesh and Others — RESPONDENT

Date of Decision : 12-10-2012

Acts Referred:

Citation : (2013) 2 ShimLC 751

Hon'ble Judges : Sanjay Karol, J

Bench : Single Bench

Advocate : Gaurav Sharma, for the Appellant; Ram Murti Bisht, D.A.G., for the Respondent

Final Decision : Disposed Off

Judgement

Sanjay Karol, J.—Petitioner has prayed for the following relief:--

(a) That the respondents be directed to produce the entire record of the case and the impugned order whereby the recovery is initiated to be effected from the monthly salary of the petitioner on account of arrears granted to him and the respondents be directed not to recover any amount from the salary of the petitioner and may be further directed to refund the amount already recovered.

In terms of impugned order dated 15.3.2010 (Annexure P-2), Accounts Officer, Accountant General, Himachal Pradesh has asked the Executive Engineer, Rajgarh Division to recover the amount paid in excess than the entitlement of the employees, including the petitioner.

2. The State has filed an affidavit justifying such action, clarifying that the amount was released to the petitioner erroneously in terms of the Policy which was totally inapplicable to him. Subsequently, this action was rectified and petitioner was regularized in terms of the prevalent and relevant Policy, in the year 2006.

3. Be that as it may be, the fact of the matter is that before effecting recovery of

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the amount from the petitioner, no notice was ever issued to him. No opportunity of hearing was also afforded. Recovery was subsequently sought to be effected.

4. The Division Bench of this Court vide interim order dated 15.3.2011 stayed recovery of the amount from the petitioner.

5. Without adverting to the factual matrix and the respective contentions so raised by the parties in the petition, as requested, petition is disposed of on a limited ground, with a direction that before effecting any recovery of the amount from the petitioner, respondents-State shall issue a show cause notice and also afford opportunity of hearing to him. Only after petitioner is heard, a decision with regard to recovery of the amount shall be taken by the respondents. Needful be positively done within a period of three months from the date of receipt of certified copy of this order. Till then, no recovery shall be effected from the petitioner. Impugned action is neither legal nor sustainable in law. With the aforesaid observations, present petition stands disposed of, so also the pending application(s), if any.

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