
(2010) 04 CHH CK 0003
In the Chhattisgarh High Court

Reeta Kurre (Smt.)

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 07-04-2010

Acts Referred:

Citation : (2010) 3 MPHT 65

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Judgement

Satish K. Agnihotri, J.—Learned Counsel appearing for the petitioner submits that the petitioner is not challenging the order dated 27-2-2009 (Annexure P-1) to the effect of discounting the grant of benefit of Kramonnati, however the payment whatsoever has been made to the petitioner on account of Kramonnati granted to the petitioner by the respondent authorities the same may not be recovered. Learned Counsel further submits that the petitioner was not granted the benefit of Kramonnati on account of misrepresentation or fraud committed by him. The said benefit was granted to the petitioner by the respondent authorities after having considered all the aspects of the case of the petitioner in its letter and spirit.

2. Per contra, Shri Moorthy, learned Deputy Advocate General for the state submits that the benefit of Kramonnati has wrongly been granted to the petitioner and after knowing about the said mistake the impugned order was rightly passed. Thus, the petitioner is not entitled to any relief.

3. I have heard learned Counsel appearing for the parties, perused the pleadings and the document appended thereto.

4. The Supreme Court in Punjab State Electricity Board and Another Vs. V.N. Sharma, has settled that no recovery can be made if it is not on account of any misrepresentation or fraud committed by the employee, but by wrong construction made by the authorities. In Para 5 the Supreme Court observed as under:

5. However, it is not on account of any misrepresentation made by the appellant that the benefit of higher pay scale was given to him but by wrong construction made by the Principal for which the appellant cannot be held to be at fault. Under the circumstances, the amount paid till date may not be recovered from the appellant.

5. In view of foregoing, the impugned order passed no respect of recovery part remained illegal order, as the same was passed contrary to well settled principles of law laid down by the Supreme Court in Sahib Ram (supra). Even otherwise, the State has not averred that the benefit of Kramonnati was granted to the petitioner on account of his misrepresentation or fraud, or any prejudice has been caused to the respondents.

6. This Court, as well as the Supreme Court, in a catena of decisions, time and again reiterated that no recovery of excess payment for no fault of the employee can be made without following the principles of natural justice. This Court in Ramchandra Kurup v. State of C.G. and Ors. 2010(2) M.P.H.T. 92 (CG) : W.P. (S) No. 3663 of 2009 and other connected matters, decided on 23rd November, 2009, observed as under:

19. A common thread running into the above decisions of the Supreme Court is that, for recovery of excess payment of emoluments/allowances, there are three conditions wherein the excess payment may be recovered, namely (i) excess payment was made on account of misrepresentation or fraud on the part of the employee, (ii) the employee had knowledge that the payment received was in excess, and (iii) the error was corrected within a short span of time of wrong payment....

7. Applying the well settled principles of law to the facts of the case and for the reasons mentioned hereinabove, the impugned order 27-2-2009 (Annexure P-1) passed in respect of recovery of excess payment made to the petitioner, is hereby quashed. If the amount has already been recovered, the petitioner is entitled to the said amount, subject to verification of facts and in accordance with law.

8. The writ petition is accordingly disposed of. No order as to costs.