

(2020) 09 MP CK 0110
In the Madhya Pradesh High Court
Case No : Writ Petition No. 3574 Of 2018

Smt Sharad Joshi

APPELLANT

Vs

State Of M.P. And Others

RESPONDENT

Date of Decision : 14-09-2020

Acts Referred:

Citation : (2020) 09 MP CK 0110

Hon'ble Judges : S. C. Sharma, J

Bench : Single Bench

Advocate : L.C. Patne, Kirti Patwardhan

Final Decision : Allowed

Judgement

This court has already allowed the amendment application and the amended Writ Petition has also been filed by Mr Patne. The same is taken on record.

In the present case the petition was filed by Smt Sharad Joshi, who was an employee of the State of Madhya Pradesh serving the Police Department and during the pendency of the writ petition unfortunately she expired. The petitioner is against the order dated 24-08-2017 by which recovery has been ordered, which includes the interest component also.

Mr Patne has straightaway drawn the attention of this court towards the order passed in Writ Petition No. 8902/2020. dated 27-06-2020 and the same reads as under :-

"The petitioner before this Court has filed this present petition being aggrieved by the order dated 10.07.2018 passed by the respondent No.2.

The petitioner's contention is that an order of recovery was issued against the petitioner directing recovery. Now the respondents are recovering the interest also on excess amount paid to the petitioner.

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 Writ Petition No.8902/2020 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."

In light of the aforesaid order as this court has quashed the interest component on the amount due, the present writ petition also deserves to be allowed as the amount has been recovered from the deceased employee under the similar circumstances. Resultantly, the writ petition stands allowed with the following directions :-

"a). The respondents shall be free to recover only the principle amount from the petitioner.

b). The recovery in respect of interest component is waived.

c). The respondents after adjusting the principle amount from the retrial dues, if the same has not been recovered so far, shall release all the terminal dues, within a period of six weeks from the date of receipt of certified copy of this order."

With the aforesaid, the writ petition stands allowed.

Certified copy as per rules.