(2012) 09 MP CK 0299

In the Madhya Pradesh High Court

Case No : W.A. No. 289 of 2011

State of M.P. and Others APPELLANT

Vs

Shriram Meena RESPONDENT

Date of Decision : 04-09-2012

Acts Referred:

Madhya Pradesh Civil Services (Pension) Rules, 1976 — Rule 65

Citation : (2012) 09 MP CK 0299

Hon'ble Judges : Vimla Jain, J;Krishn Kumar Lahoti, J

Bench : Division Bench

Advocate : P.K. Karurav, Dy. A.G, for the Appellant;

Final Decision : Dismissed

Judgement

1. This appeal is directed against an order dated 10.11.2010 passed by the Single Bench in W.P. 1938 of 2010 by which an order for recovery of Rs. 1,10,247/- from the gratuity of the respondent (Annexure P-11) of the writ petition was quashed. This order has been challenged by the appellant on the ground that before retirement of the respondent, a show cause notice was issued to him on 30.9.2002 so the authorities were justified in deducting the amount from the gratuity of the respondent. We have perused the record and the order passed by the Single Bench.

2. Facts of the case are that the respondent was working as the Employment Officer and one Choukidar on daily wages was appointed by him. His salary was paid but a show cause notice was issued to the respondent on 30.9.2002 in respect of engagement of Choukidar on daily wages. Thereafter, no action was taken on the show cause notice and on 31.7.2005, the respondent was retired on attaining the age of superannuation. After his retirement on 24.7.2010, an order of recovery from the gratuity was passed which was assailed by the respondent before the High Court. The learned Single Judge considered the provisions of Rule 65 of the M.P. Civil Services Pension Rules, 1965 and found that no proceedings were pending on the date when the respondent had retired. The

order of recovery could have been passed by the Governor. Apart from this, from the gratuity such amount could not have been recovered, as only recovery of an amount under specified heads could have been directed. On the aforesaid grounds the learned Single Judge quashed the impugned order. Rule 65 of the aforesaid Rules reads thus :-

65. Recovery and adjustment of Government dues -(1) It shall be the duty of every retiring Government servant to clear all Government dues before the date of his retirement.

(a) an equivalent cash deposit may be taken from him; or

(b) out of the gratuity payable to him, his nominee or legal heir, an amount equal to that recoverable on account of ascertainable Government dues shall be deducted.

Explanation- 1. The expression "ascertainable Government dues" includes balance of house building or conveyance advance, arrears of rent and other charges pertaining to occupation of Government accommodation, over-payment of pay and allowances and arrears of income tax deductible at source under the income tax Act, 1961.

3. The aforesaid provision specifically provides that only ascertainable government dues could have been deducted from the gratuity and these are balance of house building or conveyance advance, arrears of rent and other charges pertaining to occupation of Government accommodation, overpayment of pay and allowances and arrears of income tax deductible at source under the income tax Act. There is no dispute that the aforesaid amount does not fall within the purview of ascertainable government dues and the appellants were not entitled to deduct the aforesaid amount from the gratuity of the respondent. In view of the aforesaid, learned Single Judge rightly directed refund of the aforesaid amount alongwith 8% interest. In the impugned order we find no error warranting interference of this Court. This appeal is without merit and is dismissed with no order as to costs.