
(2020) 09 MP CK 0039

In the Madhya Pradesh High Court

Case No : Writ Petition No. 12834 Of 2020

Vishnu Prasad Vyas

APPELLANT

Vs

State Of MP & Ors.

RESPONDENT

Date of Decision : 04-09-2020

Acts Referred:

Citation : (2020) 09 MP CK 0039

Hon'ble Judges : Prakash Shrivastava, J

Bench : Single Bench

Advocate : L.C. Patne, Prakhar Karpe

Final Decision : Disposed Of

Judgement

By this writ petition, the petitioner has challenged the recovery order dated 15/11/2006 on the limited ground that the petitioner has no grievance in respect of the principal amount which has been paid in excess, but his grievance is confined to the interest amount. It has been pointed by learned counsel for petitioner that the recovery is still continuing. He has submitted that the excess payment was not made to the petitioner on account of any fraud or misrepresentation by him, therefore, he is not liable to pay the interest. Placing reliance upon the order dated 15/07/2020 passed in WP No.9768/2020 in the case of Shankarlal Sharma Vs. State of M.P. and others he has submitted that the case is squarely covered by this order.

Learned counsel for the State has not disputed this.

The coordinate Bench of this Court in WP No.9768/2020 had passed the following order:-

"Parties through their counsel.

The petitioner before this Court has filed this present petition being aggrieved with the recovery ordered by the respondents.

Learned counsel for the petitioner has argued before this Court that the petitioner is not aggrieved so far as the principal amount is being recovered from the petitioner, however, he is aggrieved only in respect of interest component.

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 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."

Having regard to the submissions made by learned counsel for parties and undisputed position that the present case stands on the same footing, the present writ petition is also disposed of by holding that the directions issued in the matter of Shankarlal Sharma (supra) will apply mutatis mutandis in the present case also.

c.c as per rules.