

WP-4847-2010

(RAMRASILE SINGH Vs SECRETARY THE STATE OF MADHYA PRADESH)

29-04-2015

Shri P.K.Singh, learned counsel for the petitioner.

Shri P.K.Pandey, learned Government Advocate for the respondents/State.

The petitioner has filed the present petition challenging the order of recovery Annexure P/2, whereby recovery of Rs.58,858/- from the retiral dues of the petitioner has been made.

The contention of learned counsel for the petitioner is that the petitioner was appointed on the post of skilled helper on 09/05/1988. After completion of the age of superannuation, he has been retired on 31/07/2007. At the time of issuance of last salary certificate, the petitioner was directed that a sum of Rs.58,858/- is to be recovered from the retiral dues of the petitioner on the ground that the petitioner should have been retired on 30/09/2006, but due to mistake, he has been retired on 31/07/2007. As such he has worked 10 months extra service from the date of his retirement and has received the salary, respondents have directed to be recovered the amount of Rs.58,858/- from the retiral dues of the petitioner.

Being aggrieved by the said order, the petitioner has approached to this Court by filing this writ petition under Article 226 of the Constitution of India, contending that the petitioner is continuing the services of the respondents after attaining the age of superannuation, for which there is no fault on his part. As he has already been worked on the said post, therefore the amount cannot be recovered from the petitioner. He placed a reliance in

the case of **State of Punjab & others etc. vs. Rafiq Masih (White Washer) etc., 2015(1) MPHT 130 (SC)**. He further submits that recovery cannot be made from the retired employee. Learned Government Advocate appearing on behalf of the respondents/State has filed their reply and in the reply, it is contended that due to inadvertence the petitioner was allowed to continue even after his due date of retirement and was continued upto 31/07/2007.

I have heard learned counsel for the parties and perused the record.

From perusal of the record, it appears that the petitioner had worked on the said post from 01/10/2006 to 31/07/2007 without there being any fault on his part. As he has already been worked on the said post, respondents cannot recover the said amount from the petitioner. The Hon'ble Apex Court in the case of Rafiq Masih (White Washer) etc. (supra) has clearly mentioned that no recovery is made from the Class-III, Class IV employee as well as retired employee.

In the present case, the petitioner was a class-III employee, therefore no recovery is made against the petitioner in light of the judgment passed by the Hon'ble Apex Court.

In view of the aforesaid, the petition filed by the petitioner is allowed. The order of recovery Annexure P/2 is hereby quashed. Respondents are directed to refund the amount to the petitioner along with interest @ 8%. However, it is made clear that the period from 01/10/2006 to 31/07/2007 is not counted in the services of the petitioner for the pension and other retiral dues.

In view of the aforesaid observation, the petition stands allowed

and disposed of, with no order as to costs.

Certified copy as per rules.

(VANDANA KASREKAR)
JUDGE