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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE VIVEK AGARWAL**

ON THE 12th OF MARCH, 2024

WRIT PETITION No. 14276 of 2021

BETWEEN:-

BAL KRISHNA DWIVEDI S/O SHRI C.L. DWIVEDI, AGED ABOUT 62 YEARS, OCCUPATION: RETIRED AS ASSISTANT GRADE III R/OQUARTER NO P/7 ENGINEERING COLLEGE COLONY REWA DISTT. (MADHYA PRADESH)

.....PETITIONER

(BY SHRI ANIRUDDH PRASAD PANDEY - ADVOCATE)

AND

- 1. THE STATE OF MADHYA PRADESH THR. IT S PRINCIPAL SECRETARY TECHNICAL EDUCATION MANTRALAYA VALLABH BHAWAN (MADHYA PRADESH)**
- 2. COMMISSIONER TECHNICAL EDUCATION SATPURA BHAWAN FOURTH FLOOR BHOPAL (MADHYA PRADESH)**
- 3. PRINCIPAL GOVT. ENGINEERING COLLEGE REWA REWA (MADHYA PRADESH)**
- 4. DIVISIONAL PENSION OFFICER DIVISIONAL OFFICE REWA (MADHYA PRADESH)**

.....RESPONDENTS

(BY SHRI DEEPAK SAHU - PANEL LAWYER)

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This petition coming on for hearing this day, the court passed the following:

ORDER

This petition is filed by the petitioner being aggrieved of order dated 05.04.2021, passed by the Principal, Rewa Engineering College, Rewa, directing

the authorities to recover a sum of Rs.30,8761/-, towards the rent of the Government house/electricity/water charges from the gratuity payable to the petitioner as petitioner had not deposited the said amount with the respondents.

2. Similarly, petitioner is also aggrieved of the order dated 05.04.2021 Annx.P/3, whereby, petitioner has been subjected to recovery of Rs.41,831/- on account of some objections raised by the audit team of the Accountant General.

3. Petitioner's contention is that these recoveries are not sustainable in the eyes of law and, therefore, they be quashed.

4. Learned counsel for the petitioner submits that the petitioner is a retired Class-III employee and, therefore, as far as recovery of part of audit objection is concerned, that is not sustainable in the eyes of law, because petitioner was not responsible for fixation of his pay and thus the recovery on account of audit objection is not sustainable in the eyes of law laid down by the Supreme Court in *State of Punjab and others Vs. Rafiq Masih (White Washer) and others [(2015) 4 SCC 334]*.

5. Shri Deepak Sahu, learned Panel Lawyer, for respondents State in his turn, submits that Annx.P/2 is the order concerning recovery of arrears of rent charges and electricity charges w.e.f. 01.06.2004 to 30.06.2011, whereas, the order Annx.P/3 is the recovery of missing articles which were given in charge of the petitioner and cost of which as per audit objection dated 18.08.2002, has been determined.

6. It is submitted that after suspension of the petitioner on 09.12.2003, his headquarter was changed from Rewa to Satna Polytechnic College and for that he was relieved on 31.05.2004, for joining at Satna. Petitioner did not vacate the Government quarter which was allotted to him at Rewa, because of which the house rent as on 31.10.2008 for a period from 01.06.2004 to 31.10.2008

(total 51 months) was to the tune of Rs.2,07,825/-. This amount was totalling Rs.3,36,312/- as on 30.12.2010. After adjusting the amount paid, the recovery for the remaining amount has been issued vide Annx.P/2.

7. It is evident that since the petitioner was Incharge of the store, he was responsible to account for missing articles and, therefore, that amount has been ordered to be recovered vide Annx.P/3.

8. After hearing learned counsel for the parties and going through the record, recovery has two different connotations, one is recovery on account of incorrect pay fixation etc., which results in excess payment and another is on account of enforceable claims against the employee.

9. As far as recovery of excess payment is concerned, law laid down in case of *Chandi Prasad Uniyal and others Vs. State of Uttarakhand and others [(2012) 8 SCC 417]* and *Rafiq Masih* (supra), will be admissible. But, when the claim is in regard to arrears of house rent etc., which admittedly the petitioner had not vacated after change of headquarter which he was liable to vacate, then in that view of the matter, dues of the State Government can be adjusted from the amount payable to the petitioner in the form of gratuity etc.

10. Rule 65 of the M.P. Civil Services (Pension) Rules, 1972 (hereinafter referred to as Rules of 1972 for short), provides for recovery and adjustment of Government dues. Sub-rule (1) of Rule 65 of Rules of 1972, provides that it shall be the duty of every retiring Government servant to clear all Government dues before the date of his retirement. Thus, arrears of house rent, water and electricity charges and the cost of missing articles being Government dues can be adjusted and recovered in terms of the provisions contained in Rule 65 of the Rules of 1972.

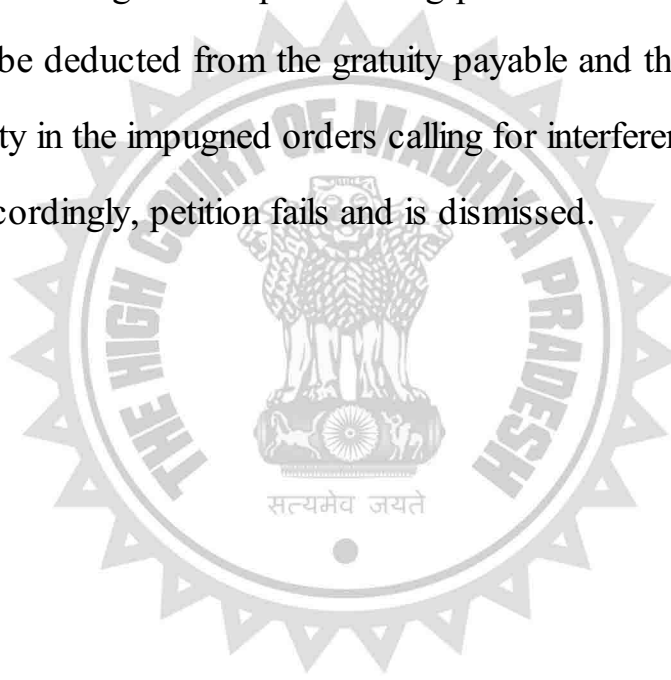
11. In fact, explanation - 1, below Rule 65 of the Rules of 1972, reads as under :-

"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 (No.43 of 1961)."

12. Thus, when examined from this perspective, then arrears of rent and other charges pertaining to occupation being part of ascertainable Government dues, they can be deducted from the gratuity payable and that being the case, there is no illegality in the impugned orders calling for interference.

13. Accordingly, petition fails and is dismissed.

A.Praj.



**(VIVEK AGARWAL)
JUDGE**