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WA-477-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA,
CHIEF JUSTICE

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 2nd OF DECEMBER, 2025

WRIT APPEAL No. 477 of 2025

THE STATE OF MADHYA PRADESH AND OTHERS

Versus

S.N. PANDEY

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Appearance:

Shri B.D.Singh - Dy. Advocate General for the appellants.

Shri Sanjeev Kumar Singh - Advocate for the respondent.
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ORDER

Per. Justice Vinay Saraf.

1. Instant intra Court appeal is preferred by State of M.P. and others assailing order dated 10.05.2024 passed by learned Single Judge in W.P. No.24408 of 2018, whereby the writ petition preferred by the respondent challenging the recovery from his retiral dues was partly allowed with a direction to refund the amount alongwith interest to the respondent.

2. Heard on I.A. No.2862/2025, which is an application for condonation of delay occurred in filing the present appeal. As per office report the present appeal is barred by 163 days. Heard on the question of admission also.

3. Respondent preferred the writ petition under Article 226 of the



Constitution of India assailing the recovery of sum of Rs.5,11,508/- from his retiral dues on account of erroneous pay fixation and excess payment made to him from 01.01.1986 to July, 2016. The respondent was working on the post of Assistant Grade-II in the office of Higher Education Department and superannuated on 31.08.2016. At the time of calculation of retiral benefits payable to the respondent, the department recovered Rs.5,11,508/- on the ground of excess payment due to wrong pay revision w.e.f. 01.01.1986 to July, 2016. The said order dated 29.09.2016 was challenged by the respondent by preferring the writ petition, which was partly allowed on 10.05.2024 by the learned Single Judge relying upon the judgment delivered by the *Full Bench of this Court in State of Madhya Pradesh & Anr. vs. Jagdish Prasad Dubey & Anr. reported in 2024 SCC OnLine MP 1567*. The learned Single Judge has further held that no recovery was permissible after 01.01.2006 on the basis of undertaking. The petition was partly allowed and the direction was issued to refund the amount recovered for the period from 01.01.2006 to July, 2016 alongwith interest @ 8% per annum from the date of recovery till date of payment.

4. Shri B.D. Singh, learned Dy. Advocate General submits that the learned Single Judge has erred in holding that the recovery was not permissible after 01.01.2006 even on the basis of the undertaking executed by the employee on 20.03.1990. We note that in the present matter, the employee superannuated on 31.08.2016 and the alleged undertaking was executed on 20.03.1990, which cannot be enforced after 01.01.2006 when Pay Revision Rules were made effective.



5. We are unable to appreciate this argument advanced by learned Dy. Advocate General as the Full Bench of this Court in the matter of Jagdish Prasad Dubey (*supra*) has held that recovery on the basis of undertaking is not permissible.

6. The order passed by the learned Single Judge is based on due appreciation of material available on record and the judgment delivered by Full Bench of this Court. The order does not require any interference. There is no reason to interfere with the order passed by the learned Single Judge. Impugned order is just and proper.

7. The present appeal is barred by 163 days and no sufficient reason has been assigned in the application filed for condonation of delay. From the pleadings of the application, it appears that the Law Department rejected granting permission for filing the writ appeal on 18.11.2024, granting liberty to the concerned department to take their own decision. The instant appeal is preferred on 18.02.2025 and no sufficient reason has been assigned. It was found by the court that the appellants were not prevented from preferring the appeal due to any valid reason. The delay cannot be condoned in a routine manner. No case for condonation of delay is made out, I.A. No.2862/2025 is dismissed.

8. Consequently, the appeal is also dismissed. No order as to costs.

(SANJEEV SACHDEVA)
CHIEF JUSTICE

(VINAY SARAF)
JUDGE

