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**BEFORE THE HON'BLE M.P. STATE ADMINISTRATIVE
TRIBUNAL RAIPUR**

OA 715/2002

62/18/5002/05

Aditya Kumar Tiwari
18/04/14

ADITYA KUMAR TIWARI AGE 68 YRS,
S/O LATE SHRI RAMANUJ TIWARI,
R/O PRATAPPUR NAKA ROAD,
NEAR KATHIHA FACTORY,
AMBIKAPUR (C.G.)

APPLICANT

VERSUS.

1. STATE OF MADHYA PRADESH
THROUGH THE SECRETARY
DEPT OF CO-OPERATIVE,
VALLABH BHAWAN,
BHOPAL [M.P.]
2. STATE OF CHHATISHGARH
THROUGH THE SECRETARY,
DEPT OF CO-OPERATIVE,
D.K.S. BHAWAN RAIPUR [C.G.]
3. THE REGISTRAR,
CO-OPERATIVE SOCIETIES
STATE OF CHHATISGARH
RAIPUR [C.G.]
4. COMMISSIONER AND DIRECTOR,
DIRECTORATE OF HANDLOOM
77, MAHARANAPRATAP NAGAR
ZONE- 2, BHOPAL [M.P.]
5. THE DISTRICT TREASURY OFFICER,
DISTRICT BILASPUR [C.G.]

NONAPPLICANT

**APPLICATION UNDER SECTION 19 OF ADMINISTRATIVE
TRIBUNAL ACT 1985**

May please your Lordship :-

1. PARTICULAR OF THE APPLICANT :

As shown in cause title.

Attest
Sheorani Prasad Gupta
NOTARY Ambikapur



Am...
for per...
dt- 06/02/14

J.K. Chakraborty

Lead

Att
Q
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"Smt. Yashwantin Tiwari, aged about 40 years,
daughter of late Aditya Kumar Tiwari, resident
of Godhanpur, Ward No. 3, Ambikapur, District-
Surguja (C.G.)"

CP
for G.A.
05-
mudra

Sheoran P.
NOTARY



HIGH COURT OF CHHATTISGARH, BILASPUR

S.B.: HON'BLE SHRI NAVIN SINHA, ACTING CHIEF JUSTICE

WRIT PETITION (S) NO. 5007 OF 2005

PETITIONER

Smt. Yashwantin Tiwari

Versus

RESPONDENTS

State of Madhya Pradesh and others

Appearance:

Mr. Sudeep Johri, Advocate for the Petitioner.

Mr. Shashank Thakur, Government Advocate for the State of CG.

ORDER

(24th December, 2014)

1. Heard Learned Counsel for the Petitioner and the State.
2. The original writ Petitioner—Shri Aditya Kumar Tiwari died during the pendency of writ application and was allowed to be substituted by his legal heir considering that the claims in the writ application had financial implications for the family of the deceased.
3. Learned Counsel for the Petitioner submits from the communication dated 11.12.1992 of the Joint Registrar, Department of Co-operative, Bilaspur Division, that earlier the Handloom and Co-operative Departments were one Government entity. The deceased was appointed in 1968 at a time when the two Departments constituted one

entity of the State Government. In 1968, the Handloom Department was bifurcated and the deceased was posted as Junior Supervisor in the Handloom Department from where he superannuated on 31.01.1992. While calculating his retiral dues, the authorities wrongly excluded the period of service from 1955 to 1968 and made the calculation only for the period of service in the Handloom Department. Thus, it is submitted that it is gross arbitrariness creating an artificial distinction without justification because both were the Departments of the State Government itself.

4. Learned Counsel for the State opposing the application raises a preliminary ground of delay and further submits that the State of Madhya Pradesh should have been appropriately impleaded as a party Respondent since the dues have to be apportioned under Section 49 of the Madhya Pradesh Reorganisation Act, 2000.

सत्यमेव जयते
5. The Court is not inclined to reject the writ application simplicitor on the ground of delay for institution of the writ application by the deceased in 2005 after superannuation on 31.01.1992. There is no invariable rule that a writ petition must be rejected on the ground of delay only irrespective of other considerations. Condoning the delay is a matter of discretion to be exercised in the facts of each case. No third party rights have accrued in the meantime .

6. The relief sought is limited for a part of the retiral benefits only by

taking into consideration the period of service from 1955 to 1968 only. The employee has died and his wife has also expired. The only limited question now is with regard to the arrears for gratuity and provident fund.

7. In the entirety of the facts of the case, the Court declines to reject the case on the ground of delay only as injustice to the deceased is apparent on the face of it. If the Handloom and Co-operative Departments were both under one Government entity and for functional purposes, they were separated, nonetheless both the Departments remained under the Government only. The period of the service under Co-operative Department was thus required to be counted. Directions are therefore issued to ascertain the dues of the deceased under gratuity and provident fund by taking into consideration the period of service from 1955 to 1968 also.

8. The deceased was ^{सत्यमेव जयते} working at Bilaspur. So far the question of apportionment under Section 49 of the Madhya Pradesh Reorganisation Act, 2000 is concerned, it is the responsibility of the State of Chhattisgarh to appropriately follow up matters with the State of Madhya Pradesh. In the facts and circumstances of the case, it cannot be a defence to the State of Madhya Pradesh that it was not heard in view of the notice issued to them and duly served. The order to be complied with by payment of the legitimate dues within a maximum period of four months from the date of receipt and/or production of certified copy of this

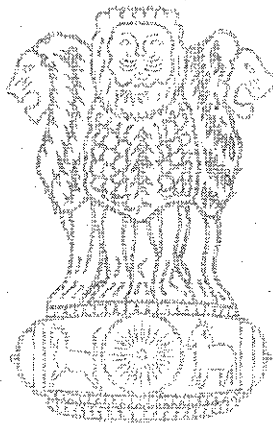
order.

9. The application stands disposed.

Sd/-
Acting Chief Justice

Anu

CHHATTISGARH HIGH COURT



सत्यमेव जयते