

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 7154 of 2008**

- K.P. Haripriya Son Of Late Shri Sheo Prasad Gautiya, R/o Village Bhikampura, Tehsil And Post Office Sarangarh, Distt. Raigarh (C.G.)

---- **Petitioner****Versus**

1. State Of Chhattisgarh, through the Secretary, Department of Commercial Tax, Mantralaya, D.K.S. Bhawan, Raipur, District Raipur, Chhattisgarh.
2. Commissioner Of Excise, State Of C.G. Raipur, Chhattisgarh.
3. Additional Commissioner Of Excise, State Of Chhattisgarh, Raipur Chhattisgarh.
4. High Powered Committee For Redressal Of Retiral Disputes, Raipur Chhattisgarh.

---- **Respondents**

For Petitioner:	Shri Ashish Shrivastava, Advocate along with Mr. Afroj Khan, Advocate
For State :	Shri U.N.S. Deo, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****04/11/2015**

1. The Petitioner through the present Writ Petition has challenged the impugned order Annexure P/1 dated 20.10.2008 whereby the case of the Petitioner for grant of Pensionary benefits was considered by the committee constituted by the State Government and by the impugned order the committee came to conclusion that as of now he is not entitled for extra pensionary benefits, however what has been given to the Petitioner is as interim measure.

2. The Petitioner on an earlier occasion filed Writ Petition No. 6032/2005 claiming for appropriate direction to the Respondents for release of pensionary benefits. Said Writ Petition was disposed of on 29.04.2008 directing that the case of the Petitioner be considered by the committee constituted by the State Government for deciding pensionary benefits and pass appropriate orders. It was in this context that Annexure P/1 impugned order in the present Writ Petition dated 20.10.2008 was passed.

3. A perusal of the record further reveals that the Petitioner was working as Dy. Commissioner in the Excise Department and was retired from service on 31.07.1995. At the time of retirement there was a case under Prevention of Corruption Act running against him which culminated in his conviction vide Judgment dated 28.08.2003. Against said Judgment of conviction a Criminal Appeal has been filed by the Petitioner and it is in the sentence part which has been suspended by the Appellate Court, the said Criminal Appeal is still under consideration before this Court. Pending the Criminal appeal with this Court and Judgment of conviction operating against the Petitioner, Petitioner has sought for interference of this Court for direction to the Respondent to release his pensionary benefits including gratuity. The plain perusal of the impugned order dated 20.10.2008 itself clearly stipulates that the State Government considering the factual back ground of the case already has passed an order for grant of interim pension to the Petitioner as is reflected from Annexure P/5 dated 19.03.1996 whereby an amount of Rs. 2294=00 has been fixed as interim pension amount payable to the Petitioner.

4. The committee constituted has also held that the committee has no objection in considering the case of the Petitioner for grant of pension, but for

the reason that the Order of conviction is running against the Petitioner and Criminal Appeal preferred by the Petitioner is also pending for final adjudication. The fact that there is a Judgment of conviction against the Petitioner itself dis-entitle him from pensionary benefits including gratuity and unless and until the Petitioner gets a clear acquittal order from the Appellate Court the Respondents would not be able to release the pensionary benefits as per the provisions of the Pension Rules applicable.

5. In the light of the impugned Judgment passed and taking note of the fact that a Criminal Appeal against the impugned Judgment is also pending for consideration before this Court, exercising the Writ jurisdiction under article 226 it would not be possible for this Writ Court to issue appropriate directions to the Respondents directing release of pensionary benefits contrary to the Pension Rules.

6. Accordingly, the present Writ Petition at this stage being devoid of merit is rejected. However, this adjudication of this Writ Petition would not preclude the Petitioner from reviving his claim for grant of full pensionary benefits subsequent to the Criminal Appeal if decided in favour of the Petitioner.

7. With the aforesaid observation the Writ Petition is dismissed.

Sd/-
(P. Sam Koshy)

JUDGE