

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1645 of 2013

- Rajkumar Mishra S/o Shive Phool Mishra Aged About 75 years, Retired Sub Inspector (Police) Village - Ten Shah, Almabad, Manjanpur P.S. Manjanpur, Distt. Koushambi (U.P.)

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Its Secretary, Department Of Home, New Raipur P.S. Rakhi, Distt. Raipur (C.G.)
2. Director General Of Police Head Quarter Raipur (C.G.)
3. Superintendent Of Police Distt. Rajnandgaon (C.G.)

---- Respondents

For Petitioner	: Shri Anil S. Pandey, Advocate
For Respondent/State	: Shri Bhaskar Payasi, P.L.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

07/07/2015

1. Petitioner has preferred this writ petition seeking payment of interest @ 12% on the amount of Rs.35085/- which was paid to him towards leave encashment, in the year 2010 although the petitioner became entitled for the same at the time of retirement in the year 1995; he has also prayed for payment of amount of Rs.1650/- illegally deducted from his salary from the year 1994 to 1998.
2. An order of recovery of Rs.14850/- was passed against the petitioner in March 1994 challenging which the petitioner preferred Original Application No.2643/1994, wherein an interim order was passed in his favour on 20/10/1994 and thereafter Original Application was allowed on 01/09/1998. In the meanwhile petitioner retired in the year 1995.
3. Because of pendency of the issue of recovery of Rs.14850/- before the State Administrative Tribunal an amount of Rs.35085/- towards leave

encashment was withheld because in the event petitioner's Original Application would have been dismissed by the Tribunal, he would have been liable to make payment of the amount. Since the petitioner had already been paid the entire pensionary dues except the amount of leave encashment, it is not a case where the amount was withheld without any justifiable reason.

4. Although there appears delay from the year 1998 till 2010 when the said amount was paid to the petitioner, however, the petitioner is also responsible for not approaching the Court with quite promptitude immediately after September 1998 when his Original Application was allowed, in stead he chose to wait till the year 2010 and yet again having received the amount of leave encashment in the year 2010 he did not prefer writ petition immediately thereafter but again waited for three years and to prefer the present writ petition in June 2013.

5. Considering the entire facts and circumstances of the case, this Court is of the considered opinion that the delay in making payment of Rs.35085/- is not such negligent or callous because the petitioner has also contributed to the delay.

6. In view of the above, the writ petition fails and is hereby dismissed.

Sd/-

JUDGE

(Prashant Kumar Mishra)