

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2614 of 2015**

S.K.Awasthy S/o Shri Krishna Kumar Awasthy, Aged about 68 years, R/o Adarsh Nagar, Chhote Attarmuda, P.S. Chakradhar Nagar, Raigarh, Chhattisgarh 496001.

---- Petitioner**Versus**

1. Kendriya Vidyalaya Sangathan Through The Commissioner, HQrs 18, Institutional Area, Shahid Jeet Singh Marg, New Delhi 110016
2. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, GCF Estate, Jabalpur 482001 Madhya Pradesh
3. The Principal, Kendriya Vidyalaya Raigarh, Raigarh Chhattisgarh.
4. The Registrar, Central Administrative Tribunal, Jabalpur Bench, Jabalpur 482001 Madhya Pradesh

---- Respondents

For Petitioner	:	Shri Sunil Kumar Soni, Advocate.
For Respondents 1 to 3	:	Ms. Deepali Pandey, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board**Per Navin Sinha, Chief Justice****22/07/2015**

1. Heard Learned Counsel for the Petitioner and the Respondents.
2. The Petitioner is aggrieved by order dated 21.11.2014 dismissing Original Application No. 1060 of 2011 declining to interfere with the order dated 24.1.2011 passed by the Respondents fixing pay scale of the Petitioner as Rs. 11,300/- as on 1.7.2005 by rectification from Rs. 11,625/- on a of typographical mistake.
3. Learned Counsel for the Petitioner submits that the Petitioner superannuated from service on 28.2.2007. The master-servant relationship stood severed. The Respondents could not have interfered with the pay-scale and the Petitioner is entitled to his pension on basis of actual last pay that he was drawing. Reliance was placed on (2015) AIR SCW 501 (State of Punjab v. Rafiq Masih) and (1994) 2 SCC 521 (Shyam Babu Verma v. Union of India).

4. Learned Counsel for the Respondents has submitted that the order of the Tribunal is well reasoned and discussed. The judgments cited by the Petitioner have no application as the order under challenge or the order for reduction of pay scale does not talk of any recovery. Moreover, soon after his retirement on 28.2.2007, modification was done as far as back on 20.3.2009 and communicated to the Petitioner against which he moved the Tribunal three years later in the year 2011. The order passed by the authorities only states that there has been a typographical error and not that there was a revision or re-fixation of pay scale on merits after superannuation.

5. We have considered the submissions on behalf of the parties.

6. Considering the contention of the Respondents with regard to correction of a typographical mistake only, superannuation of the Petitioner on 28.2.2007, communication of the rectification of pay scale on 20.3.2009 duly communicated to him after which he moved the Tribunal only in 2011, no recovery having been ordered, the order of the Tribunal calls for no interference. Matters regarding fixation of pay scale, even substantively is best left to the authorities as it requires expertise.

7. If a person has been given a monetary benefit contrary to law by error, nothing prevents the Respondents from correcting the error as no one can be permitted to retain a benefit not entitled to under the law. It is not a case of revision or re-fixation of pay scale after superannuation in which case the cessation of master-servant relationship may have been relevant factor for discussion.

8. We find no reason to interfere with the order of the Tribunal. The writ application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE