

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2713 of 2015

- Smt. Kaushilya Verma W/o Late Shri Ghanshyam Singh Verma Aged About 56 years R/o. Village & Post Karanja, Bhilai, Police Station Karanja, Civil & Revenue District Durg (Chhattisgarh).

----- Petitioner

Versus

1. State Of Chhattisgarh Through : Its Secretary, Department Of School Education, Mahanadi Bhawan, New Raipur, Police Station & Post Raipur, Civil & Revenue District Raipur (Chhattisgarh)
2. Block Education Officer, Durg, District Durg (Chhattisgarh)
3. Deputy Director, Public Education , Durg, District Durg (Chhattisgarh)
4. Divisional Joint Director, Funds, Accounts & Pension, Raipur, District Raipur (Chhattisgarh)

----- Respondents

For Petitioner

Shri Ashok Patil, Advocate

For Respondent/State

Shri Shashank Thakur, GA

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

30/07/2015

1. With the consent of the learned counsel for the parties, the matter is heard finally.
2. The petitioner is aggrieved by the order dated 28.11.2014 (Annexure-P-1) passed by the Committee for redressal of grievances concerning pension whereby, her application for receiving pension on account of death of her husband has been rejected.

3. The petitioner's husband was working as Assistant Teacher having been appointed on 30.12.1971, he resigned from the services w.e.f. 15.01.1990. On the said date, the petitioner's husband had completed a little more than 19 years of regular service.
4. In the impugned order, it is mentioned that the petitioner is not entitled to pension in view of the Rule 26 of the Chhattisgarh Pension Rules, 1976, which mandates that on resignation from service, a government servant forfeitures prior service with a proviso that a resignation shall not entail forfeitures of past service, if it has been submitted to take up with prior permission, another appointment, whether temporary or permanent under the State Government, where service qualifies.
5. Admittedly, the petitioner did not resign to take up any other appointment under the State Government, therefore, the proviso to Rule 26 (1) has no application. Thus, in view of Rule 26 (1), the past services of the petitioner's husband stands forfeited and she is not entitled for pension.
6. Under Rule 42, which prescribes completion of atleast 20 years qualifying service for seeking voluntary retirement, the petitioner's husband was not eligible because firstly, he had not completed 20 years of qualifying service and secondly, he had not sought for voluntary retirement but has resigned from service.
7. Learned counsel for the petitioner would rely on **Punjab National Bank v. P. K. Mittal**¹The said matter pertains to banking services. In the present case, the rules are entirely different, therefore, it is

¹ (1989) 2 Suppl. SCC 175

distinguishable.

8. There is no substance in this writ petition, it fails and is hereby dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala