

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 671 of 2015**

Anil Kumar Lakra S/o Saldev Ram Lakra, Aged About 41 Years C/o Isack Mashih, P.S. City Kotwali, R/o Dak Banglaw, Ward D- 93, Near Nehru Garden Dhamtari, P.S. City Kotwali, Dhamtari, Civil And Revenue District Dhamtari, (Chhattisgarh)

---- Appellant**Versus**

1. State Of Chhattisgarh Through Secretary Of Economical And Statical Department, Mahanadi Bhawan, New Mantralaya, Raipur, District Raipur, (Chhattisgarh)
2. Arthik & Sankhiki Sanchalnalay, Raipur Address Koushalya Bhawan Parishar Bairan Bazar, P.S. City Kotwali, Raipur, Civil & Revenue District Raipur, (Chhattisgarh)
3. Joint Director (Administrative) Arthik & Sankhiki Sanchalnalay Address Koushalya Bhawan Parishar; Bairan Bazar, P.S. City Kotwali, Raipur, Civil & Revenue District Raipur, (Chhattisgarh)

-----Respondents

For Appellant:	Shri Harish Kuntiya and Shri CJK. Rao, Advocates.
For Respondent/State:	Shri Prafull N. Bharat, Additional Advocate General.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board**Per Navin Sinha, Chief Justice****23/02/2016**

1. I.A. No.1 of 2015 has been filed to condone delay of 30 days in filing the appeal. Considering the duration, delay is condoned.
2. The present appeal arises from order dated 29.9.2015 dismissing W.P. (S) No.1709/2015 declining to give any directions for treating the Appellant as an Ex-service man in view of his superannuation from the Central Industrial Security Force (hereinafter referred to as the CISF).
3. Learned Counsel for the Appellant submits that after institution of the Writ Petition seeking directions for consideration of his candidature, an

appointment order was issued on 1.6.2015. Unfortunately due to lack of communication with the Counsel, the Writ Petition which ought to have been withdrawn, was pressed on merits leading to dismissal pursuant to which the show cause noticed dated 11.12.2015 has been issued as to why the appointment be not cancelled on the ground that the Appellant did not fall in the category of an Ex-service man. It is not based on an original satisfaction of the authorities but has been prompted by the decision of the Court. The Learned Single Judge erred in not appreciating the true purport and intent of the letter dated 23.11.2012 from the Ministry of Home Affairs, Government of India (Re-settlement and Welfare Directorate) that persons retired from Central Armed Police force and which includes the CISF may be extended suitable benefits alike Ex-service men of Defence Forces. Even if it was not a mandatory direction, still the State Government was required to consider matters in light of the recommendation of the Central Government. Appropriately, the Learned Single Judge ought to have directed the Respondents to take a final decision after considering the same.

4. Learned Additional Advocate General submits that the Learned Single Judge referring to the Ex-service man (Re-employment in Central Civil Service and Posts), Rules 1979 (hereinafter referred to as the Rules) has held that it confines the definition of Ex-service man to a person who has served in any rank (whether as a combatant or as a non-combatant) in the Regular Army, Navy and Air Force of the Indian Union but does not include a person inter alia who has served in a Para Military Service. The recommendation dated 23.11.2012 cannot amount to amendment of the Rules but is only advisory in nature. It is submitted that the latter itself makes it evident that persons in Para Military Forces like the Appellant do not strictly fall within the definition of Ex-service man. No policy decision has been taken by the State Government till date in pursuance of the recommendation dated

23.11.2012.

5. We have considered the respective submissions and are of the opinion that if the definition of Ex-service man is provided for in the Rules and it excludes Para Military Forces, it is not possible to grant any relief to the Appellant at this stage, even if the show cause notice dated 11.12.2015 is prompted by the order of the Learned Single Judge.

6. The Appellant would be well advised to file his reply to the show cause notice. It is also expected that the Respondents while considering the cause shown shall adequately consider and deal with the recommendation dated 23.11.2012 of the Union of India as a matter of policy rather than in the narrow perspective of the present case alone.

7. If the Appellant files his reply to the show cause notice within three weeks from today, any decision thereon will abide by the policy decision to be taken by the State Government first within a period of three months from the date of submission of the cause shown.

8. The appeal is disposed in the aforesaid terms.

(Navin Sinha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE