

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.2171 of 2016**

- B. N. Singh S/o Late Shri Ram Pariksha Singh, Aged About 61 Years
Retired As Officer Scale- 1, Chhattisgarh Rajya Gramin Bank, R/o L-4,
Vinoba Nagar, Bilaspur, District Bilaspur (Chhattisgarh)

---- Petitioner**Versus**

1. Chhattisgarh Rajya Gramin Bank Through The Chairman, Chhattisgarh
Rajya Gramin Bank, Head Office, Raipur (Chhattisgarh)
2. The General Manager, Chhattisgarh Rajya Gramin Bank, Head Office,
Raipur (Chhattisgarh)
3. The Regional Manager, Chhattisgarh Rajya Gramin Bank, Regional
Office, Bilaspur (Chhattisgarh)

---- Respondents

For Petitioner	:	Ms. Sharmila Singhai, Advocate
For Respondents	:	Shri B. D. Guru, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****07/09/2016**

Heard.

2. By this petition, the petitioner seeks direction of this Court to the respondent authorities to pay retiral dues. The petitioner retired on 31-07-2015.

3. Learned counsel for petitioner submits that in the garb of pendency of departmental enquiry, which was initiated by issuance of charge sheet dated 24-11-2014, all the retiral benefits of the petitioner have remained withheld. It is submitted that the departmental enquiry cannot be made a basis to withhold retiral benefits for indefinite time. The departmental enquiry ought to be completed within a reasonable period and if it is not done, the retiral dues are

required to be released.

4. On the other hand, learned counsel for the respondent-bank, referring to provision contained in Rule 45(4) of Chhattisgarh Gramin Bank Officers and Employees Service Regulations, 2010 (In short “the Regulations of 2010”), submits that according to aforesaid statutory provisions of regulations, in case, where departmental enquiry is pending on the date of superannuation, the retirement benefits cannot be paid till the proceedings is completed and final order is passed thereon.

5. In order to appreciate respective submission, it is relevant to refer to provision contained in Rule 45(4) of the Regulations of 2010, extracted herein below:-

45. “Disciplinary proceedings after retirement -

(1) ----- xxx -----

(2) ----- xxx -----

(3) ----- xxx-----

(4) The officer or employee against whom disciplinary proceedings has been initiated shall not receive any pay and/or allowances after the date of superannuation and also not be entitled for the payment of retirement benefits till the proceedings is completed and final order is passed thereon except his own contribution to Contributory Provident Fund (CPF).”

6. The provision contained in Rule 45(4) of the Regulations of 2010 is drastic in nature. This deprives a retired employee from receiving his retiral dues, after his retirement, in a case, where there is departmental enquiry pending against an employee. Looking to the harshness of the rule, which deprives a retired employee from retiral benefits only on the ground of pendency of departmental enquiry, it has to be interpreted in a manner, which saves constitutionality otherwise without any corresponding obligation to complete

departmental enquiry within a reasonable time, provision would become unconstitutional being arbitrary and oppressive, thus violative of Article 14 of the Constitution of India. Therefore, even if there is no specific time prescribed in the regulations of 2010, the respondents are under an obligation to complete the departmental enquiry within a reasonable period.

7. Moreover, in a case, where departmental enquiry is not completed within a reasonable period for reasons attributable to the employee, the employee may not be entitled to release of retiral benefits, but in cases where for none of the fault of the employee, the departmental enquiry is kept pending for a long time, withholding of retiral benefits would act as double edged sword. It is also found that the Rule makes no distinction between cases of misconduct where there is allegation of financial loss and cases where allegation is unconnected with any financial loss. Cases where there are allegations of misconduct connected with allegations of financial loss to the institution, obviously, the purpose and object of withholding retiral dues is only to ensure that in case, the departmental enquiry results in imposition of recovery, dues can be adjusted against such recovery.

8. In view of above consideration, this Court is of the considered opinion that in such cases, where the retiral dues have been withheld by operation of provisions contained in Rule 45 (4) of the Regulations of 2010, the departmental enquiry is required to be completed within a reasonable period, which should not be exceed six months. If the departmental enquiry has not been completed within a period of six months, for the reasons not attributable to the employee, the retiral dues have to be released.

9. In this case, the departmental enquiry has remained pending for a long time against the petitioner. However, there is no material on record to show that

the petitioner is responsible for any delay in departmental enquiry. Averments have not been made in this regard by either of the parties.

10. Therefore, in these circumstances, at this stage, the petition is finally disposed off with a direction to the respondents to complete the departmental enquiry pending against the petitioner within a further period of four months from the date of receipt of a copy of this order by the disciplinary authority. In case, the departmental enquiry is not completed without there being any prayer for adjournment by the petitioner, the retiral benefits shall be released to the petitioner.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge