

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4801 of 2009

Amrit Lal Naik, S/o Late Shri Harilal Naik, Aged about 62 yrs, retired Dy.
Manager, R/o Opposite LIG-50, Nehru Nagar, Bilaspur, Distt. Bilaspur (CG)

---- **Petitioner**

Versus

1. State Of Chhattisgarh , Through Secretary Department of Agriculture, DKS Bhawan, Mantralaya, Raipur, Distt. Raipur (CG)
2. Chhattisgarh State Seed And Agriculture Farm Development Corporation, Through Its Managing Director, Headquarters Beej Bhawan, Ravigram, Telibandha, GE Road, Raipur (CG)
3. Chhattisgarh Mandi Board Beej Bhawan, Ravigram, Telibandha, GE Road, Raipur (CG)
4. Branch Office Chhattisgarh State Seed And Agriculture Farm Development Corporation, Headquarters Beej Bhawan, Ravigram, Telibandha, Ge Road, Raipur (CG)
5. M.P. State Agro Industries Corporation Limited, Panchanan Bhawan, Third Floor, Malviya Nagar, Bhopal (MP)
6. Commissioner Employees Provident Fund Commission, Sub Regional Officer, 132, Zone-Ii, Mp Nagar, Bhopal (MP)

---- **Respondents**

For Petitioner	:	Shri Abhishek Sinha, Advocate
For State	:	Shri Satish Gupta, Government Advocate
For Respondent No.2& 4	:	Shri A.S. Kachhawaha, Advocate with Ms. Pushpa Dwivedi, Advocate
For Respondent No.3	:	Shri Pallav Mishra, Advocate
For Respondent No.6	:	Shri Sunil Pillai, Advocate
For Respondent No.5	:	None appears

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

17/08/2017

Mr. Akeel Ahmed Siddiqui, Assistant Provident Fund Commissioner,
Bilaspur is also present in the Court.

1. It is a case of pensioner, who retired on 31.05.2005 from the Post of Deputy

Manager of respondent No.2. It appears that respondent No.2 on the basis of his own record, found that a total amount of Rs.1,27,847.83 was recoverable against the petitioner. Presumably for that reason, though a substantial payment towards GPF, Gratuity, Leave Encashment, Group Insurance was made to the petitioner, as detailed by the respondent in their letter dated 23.11.2009 attached along with the return, the pension case of the petitioner was not finalized and full payments against Group Insurance, gratuity were not released which led the petitioner to file this petition.

2. Return has been filed by all the respondents except respondent No.6.
3. Learned counsel for respondent No.6 submits that for finalization of pension and payment to the employee, the petitioner ought to have forwarded and filled up pension form to the organization of respondent No.6 which has not been done till date. He submits that in the absence of receipt of pension form, which was not duly filled up by the petitioner nor forwarded to respondent No.6, the petitioner's pension case could not be finalized and as soon as the petitioner duly fills up form and submits to respondent No.6, appropriate steps would be taken towards finalization and payment of pension including arrears of pension from the date of his retirement.
4. Learned counsel for respondents No.2 & 4 submits that the petitioner was informed vide letter dated 24.11.2009 that an amount of Rs.1,27,847.83 is recoverable from the petitioner but the petitioner did not deposit the said amount. He submits that as the petitioner is liable to pay the said amount to respondent No.2, complete payments cannot be made to the petitioner.
5. After hearing learned counsel for the parties, this Court finds that the crux of dispute relates to liability for payment of Rs.1,27,847.83 pending between the parties and for that reason, the pension case of the petitioner could not be finalized and payments are still withheld. This situation could be avoided but unfortunately, the matter has remained pending for such a long time.
6. Learned counsel for the petitioner submits that there was no concrete formal order ever issued against the petitioner requiring him to deposit Rs.1,27,847.83 so as to give him an occasion to challenge the said demand

and mere communication was not enough, therefore, ignoring the same, the pension form ought to be prepared and forwarded to respondent No.6.

7. Even though, there was no specific order against the petitioner, the respondent had clearly communicated to the petitioner that Rs.1,27,847.83 is recoverable from the petitioner. The petitioner had a cause of action and he could have challenged it but he did not challenge it.
8. Even if the petitioner did not pay the said amount of Rs.1,27,847.83, fairness demanded that the respondent could adjust the amount from the dues payable to the petitioner instead of withholding preparation of pension case. In any case, pension form of the petitioner ought to be prepared and expeditiously forwarded to respondent No.6 for preparation of pension case. Therefore, the respondent, to that extent, is responsible for delay in finalization of petitioner's pension case. I find that the huge amount has already been paid to the petitioner and if the respondents thought that the certain recovery was to be made from the petitioner, nothing prevented the respondent from adjusting the amount from those dues which could be withheld on such recoveries.
9. Be that as it may, at this stage, considering that the petitioner has retired way back in the year 2005 and still far away from getting pension, interest of justice, demands issuance of a direction to respondent No.2 to forthwith forward and duly fill in pension form to respondent No.6. For this purpose, the petitioner shall be provided pension form from the office of Employees Provident Fund Organization, Bilaspur within fifteen days. The petitioner shall duly fill in form and submit a copy of the application before respondent No.2. The main pension form shall be submitted directly in the office of Assistant Commissioner, Employees Provident Fund Organization, Bilaspur. The respondent No.6 shall work out petitioner's pension within a period of two months. Bilaspur Office of the Employees Provident Fund Organization shall duly communicate that the pension case of the petitioner is to be finalized in a time bound manner along with a copy of this order to the Bhopal Office and the Bhopal Office shall expeditiously prepare the petitioner's case.

10. The arrears of pension of the petitioner shall be worked out within the same period and the same shall be paid to the petitioner.
11. As far as the amount which is withheld with respondents No.2 & 4, the said amount shall be worked out and paid to the petitioner, however, by adjusting Rs.1,27,847.83.
12. Taking into consideration that the legality and validity of alleged recovery, is not a part of challenge in the writ petition, the petitioner would be at liberty to file a separate petition for the same.
13. With the aforesaid directions, the petition is finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Rekha