

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3234 of 2017**

Arvindra Kumar Koshti S/o Late Shri Sitaram Koshti Aged About 68 Years R/o L. I. G. 260, Veer Sawarkar Nagar, Heerapur, Post- Tatibandh, Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Secretary Public Works Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur, Chhattisgarh.
2. Under Secretary Public Works Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Raipur, Chhattisgarh.
3. Engineer- In- Chief, Public Works Department Sirpur Bhawan, Civil Line, Behind Akashwani Bhawan, Raipur, Chhattisgarh.
4. Chief Engineer (Bridge) Bridge- Division, (Public Works Department), Sirpur Bhawan Civil Line, Behind Akashwani Bhawan, Raipur, Chhattisgarh.
5. State Of Madhya Pradesh, Through Its Secretary, Public Works Department, 27-28 Nirmal Bhawan, Arera Hills, Bhopal, Madhya Pradesh-462001
6. Joint Director, Local Fund Audit , Raipur, Chhattisgarh

---- Respondents

Shri Mateen Siddiqui and Ms. Ruchi Nagar, counsel for the petitioner/s.
Shri A.S.Kachhawaha, Addl. A.G. for the State of C.G. / respondents 1, 2, 3, 4 and 6.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****30/11/2017**

Notice issued to respondent No.5 has been returned with the note that section name is not mentioned in the address though name of the department is mentioned in the notice. That means that respondent No.5 is avoiding to receive notice despite clear address of the Secretary of the concerned department. Therefore, respondent No.5 is treated to be served and proceeded ex-parte.

2. The petitioner has clubbed two cause of actions. Petitioner has firstly prayed for finalisation of pension and payment of other retiral dues viz. leave encashment, GPF, Gratuity, Family Insurance amount. The petitioner has also prayed for quashing order dated 06/05/2008 by which, the Government accorded treatment to the period of suspension after conclusion of departmental enquiry. Two different and distant causes of actions cannot be allowed to be clubbed in one petition.

3. On the option of learned counsel for the petitioner, in so far as challenge to order dated 06/05/2008 is concerned, this petition is dismissed with liberty to file separate petition to challenge order dated 06/05/2008 on such grounds as may be available to him under the law.

4. As far as non-payment of retiral dues is concerned, this Court finds that the petitioner retired way back on 30/06/2009 and the petitioner's pension case is not finalised nor other retiral dues are paid. The reasons stated in the return of the respondent / State is that as the service book of the petitioner is not complete and a part of it was not available, therefore, the pension case could not be finalised.

5. The service book of the petitioner (both part – I and part – II), part – I maintained by the State of M.P. and Part-II maintained by the State of Chhattisgarh were produced for perusal of the Court. From these documents, it appears that the records are now complete, particularly for the reason that first part of the service book has now been made available. Therefore, there should not be any impediment in finalisation of pension case of the petitioner and payment of other retiral dues.

6. Present case is a classic example of callous negligence and apathy indifference on the part of the respondent authority for non-finalisation of the pension case of the petitioner. The Apex Court and this Court has been repeatedly declaring the law that pension is the property of the Government Servant and not a bounty but it is found that the pension cases are not dealt with that mind set. The petitioner cannot be faulted if his service book could not be collected which has resulted in non-finalisation of his pension case till date. Now, the respondent / State of Chhattisgarh is directed to forthwith finalise the pension case of the petitioner and also pay GPF, Gratuity, leave encashment and family insurance benefit as per petitioner's respective accounts. The exercise is required to be completed within an outer limit of three months from the date of production of copy of this order before respondents 1 to 4 and 6.

7. In addition to the interest to which the petitioner would be entitled over and above the amount which was not paid to him, considering that the petitioner is only being paid provisional pension for the last eight years and made to suffer so long after retirement at the old age, it is a fit case where this Court should impose cost on the respondents. A cost of Rs.3 lakhs shall be payable to the petitioner. The responsibility of State of Madhya Pradesh and State of Chhattisgarh would be equal, meaning thereby that each of the States shall pay Rs.1.5 lakhs to the petitioner. In case, petitioner's pension case is not finalised as directed above, the petitioner would be at liberty to take appropriate proceedings.

8. Service books of the petitioner which were produced for perusal of the Court today are returned to Shri Kachhawaha, Addl. A.G. and shall be remitted forthwith to the concerned officer to finalise the pension case of the petitioner.

It will be open for both the States to take action against the responsible employees / officers and also to recover the loss caused to the State.

9. The petition is accordingly finally disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge