

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6100 of 2008**

- Laxman Kumar Dansena S/o Late Veer Singh Dansena, aged about 61 years, R/o Atharahgudi, P.S. Pithora, Tahsil-Mahasamund, Distt.-Mahasamund (Cg)

---- Petitioner**Versus**

1. Managing Director, Chhattisgarh State Agricultural Marketing Board, Raipur (CG)
2. Deputy Director Chhattisgarh State Agriculture Marketing Board, Raipur (CG)
3. Secretary Krishi Upaj Mandi, Samiti Pithora, Distt.-Mahasamund (CG)

---- Respondent

For Petitioner	Mr. R. Pradhan, Advocate
For Respondent /State	Mr. Y.S. Thakur, Additional Advocate General

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****17/5/2017**

1. Heard.
2. Assail in this petition is to the order -Annexure P/1, by which, Krishi Upaj Mandi Samiti, Pithora, District Mahasamund has recovered Rs.34,865/- from the petitioner's gratuity for the reason that the petitioner attained the age of superannuation on 31.1.2007, however, by inadvertence, the petitioner continued in service till 31.7.2007. Therefore, the salary paid to

the petitioner from February to July 2007 has been paid in excess, which is needed to be recovered.

3. The matter in issue, fallen for consideration, has already been dealt with by this Court in exactly similar matter i.e. WPS No.4416 of 2012, decided on 07.10.2013 (Ambikeshwar Yadav Vs. State of Chhattisgarh and others), wherein, the following has been held by this Court in para 4 to 6 :

"4. In the matter of **State of Bihar Vs. Narasimha Sundram**

{1994 Supp (3) Supreme Court Cases 705}, the concerned employee before the Hon'ble Supreme Court was allowed to continue in service beyond the age of retirement, however, the salary for the said extended period was not paid to him by alleging that the employee committed fraud in respect of his age. The High Court directed the State Government to make payment of salary for the said extended period during which the employee remained in service after the age of superannuation because he had worked during the said period and the said order of the High Court has been maintained by the Hon'ble Supreme Court.

5. In the present case also, no enquiry has been conducted to determine as to whether the petitioner was at fault at any point of time while he continued in service. On the contrary, the respondents have proceeded against 2 employees of the office of Superintendent of Police, Bilaspur because of whose negligence, the petitioner could not be informed about the age of superannuation and was

allowed to continue in service.

6. Considering the entire fact situation of the case and relying on the law laid down by the Hon'ble Supreme Court in the matter of **State of Bihar Vs. Narasimha Sundram** (supra), this Court is of the considered opinion that the said part of the order whereby direction for recovery of the amount in accordance with Rule 65 of the Rules, 1976 has been directed against the petitioner is illegal and the same deserves to be quashed. The said part is accordingly quashed."

4. In the instant case also, the petitioner was allowed to continue, despite having attained the age of superannuation, not on the basis of misstatement or concealment of facts by him, but on account of inadvertence of the concerned officials of the Department and moreover, the petitioner has earned salary by working on the post from February to July 2007.

5. Therefore, for the above stated reasons, the writ petition deserves to be and is hereby allowed. The impugned order of recovery of Rs.34,865/- (Annexure P/1) is set-aside. The said amount be refunded to the petitioner within a period of 03 months from today.

Sd/-

Judge

(Prashant Kumar Mishra)