

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3693 of 2010

Krishandhar Diwan S/o Dwarika Diwan, aged 66 years, Retired Head Master,
Primary School Badra, Block Pathriya, Bilaspur (CG)

---- Petitioner

Versus

1. State Of C.G. through Secretary, Education Department, DKS Bhawan, Raipur (CG)
2. Joint Director Treasury, Account & Pension, Bilaspur, Distt.-Bilaspur (Cg)
3. District Education Officer Bilaspur, Distt.-Bilaspur (Cg)
4. Block Education Officer Pathariya, Distt.-Bilaspur (Cg)
5. Principal Govt. Higher Secondary School, Sildaha, Distt.-Bilaspur (Cg)

---- Respondents

For Petitioner	:	Shri K.S. Pawar, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

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

Order On Board

18/07/2017

Heard.

1. The only issue arising for consideration in this case is whether the petitioner is entitled to interest in respect of delayed payment of pensionary benefit.
2. In short, the petitioner retired from service with effect from 31.5.2002. While certain retiral dues were payable to the petitioner, a recovery was ordered against the petitioner which was successfully challenged by filing a petition before this Court. The petition filed by the petitioner was allowed vide order dated 17.3.2009 in WPS No.5607 of 2008, copy of which is placed on record as Annexure P-1. The entire amount which is payable to the petitioner was finally paid in the year 2010 and now there is no amount pending. The only claim which the petitioner is raising in this petition is that the petitioner is also entitled to appropriate interest on the amount, which was liable to be paid to him, but was delayed on account of the illegal order of recovery. Reliance has been

placed in the case of **Smt. H. Uttaramma Vs. State of C.G. & Ors.** 2013 (3) CGLJ 125.

3. On the other hand, learned counsel for the State submits that while the petitioner challenged the recovery before this Court, an order was passed. In that case no order of interest was directed to be paid to the petitioner. It is submitted that as there was some recovery ordered against the petitioner, the petitioner, at that time, was not entitled to payment until that recovery order was set aside by this Court. Thereafter, payment were immediately made in 2010 itself.
4. Once it is found that recovery was illegal and that the amount which was due and payable to the petitioner after his retirement could not be paid in time and there was some delay, I am inclined to hold that the petitioner shall be entitled to appropriate recovery on this amount. For this purpose, I shall rely upon order passed in the case of **Smt. H. Uttaramma** (supra). Therefore, petitioner's claim is allowed. Interest @ 10% shall be recoverable from the date of recovery till the date of refund.
5. The petition is accordingly allowed in the manner and to the extent indicated above.

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