

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6985 of 2011**

T.R. Upendra Nair S/o Lt. G.Raghavan Pillai R/o Shiv Sailam Po Naranganam Distt.
Pathanamthitta Kerala

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department of Urban Administration and Development, Mantralaya, DKS Bhawan, Raipur (CG)
3. The Director Directorate Of Urban Administration & Development DKS, Bhawan Raipur Cg
4. The Nagar Panchayat Takhatpur Through Chief Municipal Officer Nagar Panchayat Takhatpur Distt. Bilaspur Cg

---- Respondents

Shri Ashish Surana, counsel for the petitioner/s.
Shri Satish Gupta, Govt. Advocate for the State.
Shri Akhilesh Kumar, counsel for respondent No.3.
Shri Umesh Shukla, Chief Municipal Officer, Nagar Panchayat – Takhatpur is also present.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****25/07/2017**

The petitioner has filed this petition aggrieved by inaction on the part of the respondents on account of non-release of his retiral benefits.

2. While the petitioner was working as Sub-Overseer / Sub-Engineer in the Municipality, the petitioner was dismissed from service in a departmental enquiry. The petitioner challenged the legality and validity of the order by filing a writ petition in which, interim order was passed and the petitioner continued in service and during the pendency of the petition, he attained the age of superannuation on 31/03/2007. The writ petition W.P. No.2362/2001 filed by the petitioner was finally dismissed on 16/07/2015. Aggrieved by the said order, the petitioner filed a writ appeal which was eventually allowed and the order of penalty was set aside by the

Writ Appellate Court. However, while setting aside the order of penalty, the Appellate Court directed the petitioner to appear before the disciplinary authority along with copy of the order. Further direction was to the effect that the disciplinary authority was required to consider the matter in accordance with law and dispose off the matter by reasoned and speaking order within a maximum period of four weeks.

3. As has been averred in the petition and could not be denied by the respondents, the petitioner appeared before the authorities as directed by this Court. Thereafter, no orders have been passed. The order was passed by the Division Bench on 03/09/2015 and even after 10 months, the order has not been complied with. Apart from the liability which the erring officials may have to bear due to non-compliance of the order of the Division Bench, the submission of learned counsel for the petitioner is that in any case, petitioner's case of retiral dues cannot be kept pending indefinitely for none of his fault. He submits that despite clear direction by this Court that decision shall be taken in four weeks, till date, no decision has been taken and therefore, in these circumstances, direction may be issued to respondents to release retiral benefits.

4. On the other hand, learned counsel for respective respondents submit that though the Division Bench was pleased to set aside the order of dismissal and taking into consideration that there were allegations of financial defalcation, held that the matter cannot be kept pending by mere lapse of time and directed to reconsider the matter after hearing the petitioner. Learned counsel for respondent No.3 submits that the case of the petitioner has been forwarded to the Director, Urban Administration, who in turn, forwarded to the Secretary, Urban Administration Development and was awaiting decision in the matter.

5. Except making statement before the Court that the matter is pending after having been forwarded to the higher authorities, there is no concrete statement made as to within what time, the order would be passed. It has to be noted that the Division Bench, in its order dated 03/09/2015, had fixed the time limit of four weeks which expired long back. Learned counsel for the respondents could not satisfy that they sought extension and any extension was granted to them. Therefore, inaction on the part of the respondent authority is clearly in the teeth of the order passed by the Division Bench and for that default of the respondents, the petitioner cannot be made to suffer indefinitely. In the garb of pendency of enquiry, which

was required to be completed within four weeks under the judicial order, withholding retiral benefits of the petitioner, is absolutely arbitrary apart from being illegal and violative of the judicial mandate.

6. In view of the aforesaid consideration, it would be proper to hold that the retiral dues of the petitioner be released forthwith. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge