

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4675 of 2017

Virendra Kumar Sharma S/o Late Haridayal Sharma, Aged About 62 Years
Retired Technical Assistant, R/o House No.37, Vasundhara Nagar, New
Changora Bhata, Raipur, District Raipur, Chhattisgarh

---- Petitioner

Versus

1. Chhattisgarh State Ware Housing Corporation Through Managing Director,
Head Office Industrial Building, Third Floor, Ring Road No.1, Raipur, District
Raipur, Chhattisgarh
2. Manager, Accountant/ Technical/ Commercial/ Karmik, Chhattisgarh State
Ware Housing Corporation, Head Office, Raipur, District Raipur,
Chhattisgarh

---- Respondents

For Petitioner	:	Shri Awadh Tripathi, Advocate
For Respondent	:	Shri B.D. Guru, Advocate

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

Order On Board

06/11/2017

Heard.

1. The petitioner retired as Technical Assistant from service of respondent on 30.6.2017. When no retiral dues including GPF and gratuity were paid to the petitioner, a representation was preferred by the petitioner. When the representation failed to evoke any response, the petitioner filed this petition. This Court required the respondents counsel to seek instructions and inform the Court as to why various dues have not been released.
2. A reply on affidavit has been filed by the respondents today, referring to which, learned counsel for the respondents would submit that while the petitioner was in service, there were certain losses caused to the

Warehousing Corporation and various internal inquiries are going on in the matter and unless in those inquiries, the petitioner is finally exonerated, the retiral dues viz. gratuity, GPF have been withheld. He submits that as and when those inquiries are completed, the dues which are payable to the petitioner shall be expeditiously made.

3. Admittedly, the petitioner has retired from service. Learned counsel for the respondents could not point out that either in the contract of service with the petitioner or in the statutory Rules governing terms and conditions of service, it was open for the respondent, despite existence of relationship of master and servant, to institute departmental enquiry against a retired employee. Unless it is permissible either in the contract of service between the petitioner and respondent or under any service Rules having force of Law, the gratuity and GPF amount of the petitioner may not be withheld. It would be an arbitrary action to withhold retiral benefits which are essential for sustenance of a retired employee unless it is permissible under the Law. It is not a case that some departmental enquiry has already been initiated or that certain orders have been passed towards recovery so as to justify withholding of whole or part of retiral dues of the petitioner. If that is allowed to be done, it would amount to denying and depriving the benefit of GPF and gratuity which do constitute property under Article 300-A of the Constitution of India, without any authority and Law.
4. On aforesaid considerations, particularly in the absence of any Rule authorizing the respondent to withhold the retiral dues of the petitioner, this Court is inclined to issue writ of mandamus to respondents to release forthwith the amount of gratuity and GPF to the petitioner. Let necessary orders be passed and amount be deposited in petitioner's account within an outer limit of 30 days from the date of receipt of copy of this order.
5. The petition is accordingly allowed.

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