

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 6261 of 2016**

- Ratiyo Bai Wd/o Late Ritu Ram Vishwakarma, Aged About 65 Years
R/o Purna Nagar, Post- Sitonga, Tahsil And District- Jashpur Nagar
Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- The Secretary, Panchayat And Rural Development Department, Mantralaya, Mahanadi Bhawan, New Raipur, District- Raipur Chhattisgarh.
2. Joint Director, Panchayat And Social Welfare Department, Division Bilaspur, District- Bilaspur Chhattisgarh.
3. Deputy Director, Panchayat And Social Welfare Department, Raigarh, District- Raigarh Chhattisgarh.
4. Collector, Jashpur, District- Jashpur Chhattisgarh.
5. Chief Executive Officer, Janpad Panchayat, Manora, District- Jashpur Chhattisgarh.

---- Respondents

For Petitioner
For State

Mr. Yogesh Chandra, Advocate
Mr. Gary Mukhopadhyay, Dy. Government
Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****27.02.2017**

1. The present Writ Petition has been filed by the Petitioner seeking a direction to the Respondents to refund illegally recovered amount of Rs. 82,760/- from the pension payable to the Petitioner. Further the Respondents may also be directed to pay interest over the delay caused in releasing the pension and pensionary benefits to the Petitioner.

2. The brief facts of the case is that the husband of the Petitioner was working as Gram Sahayak (Village Assistant) at Gram Panchayat Sonkyari, Block Manora, District Jashpur when the husband of the Petitioner was placed under suspension contemplating disciplinary proceeding on 25.01.1993. However the disciplinary proceeding initiated against the husband of the Petitioner could not be concluded and the employee got retired from the service on attaining the age of superannuation on 31.05.1994. The Respondents did not release the Pensionary benefits and the retiral dues which the delinquent employee was entitled for and finally after suffering from paralysis for some time the delinquent employee expired on 26.04.2002. Meanwhile the Respondent is said to have issued an order dated 05.04.2002 directing recovery of Rs. 82,760 from the pension payable to the Petitioner. The said order of recovery was passed without any sort of inquiry being made, neither the delinquent was given an opportunity of hearing to defend. That, while the delinquent employee was in service he was not subjected to any disciplinary action which culminated in punishment.
3. Though the delinquent employee the husband of the Petitioner had retired with effect from 31.05.1994 the pensionary benefits and retiral benefits were not released to the Petitioner for reasons best known to the Respondents. After prolonged correspondences the pension was ultimately released on 23.12.2003 i.e. after a period of more than 9½ years from retirement. Meanwhile the General Provident Fund (GPF) amount which was in credit of the employee was released only on 06.02.2017 i.e. almost after 23 years from the date of retirement. It is also pertinent to note that the Pensionary benefits which was released also were after deducting 82,760 Rupees. It is this release of the

retiral benefits and pensionary dues after a substantial period of time which has forced the Petitioner to file this Petition seeking for refund of the illegally recovered amount and also for the interest on the delayed payment.

4. The Respondents in their reply the additional affidavit which has been filed have only formally opposed the Petition and the additional affidavit filed by the State also states that the perusal of the record in the office of the Respondent does not reveal any sort of inquiry or a show cause notice having been issued to the employee while he was in service or subsequently before issuance of the order of recovery on 05.04.2002.
5. True it is that the Petition appears to have been filed at a belated stage but since the matter pertains to the claim of monetary relief and is also in respect of an amount which is otherwise due to the Petitioner which has been illegally recovered by the Respondent and the Petitioner and her husband being deprived of the retiral and pensionary benefits for 8 long years while the husband of the Petitioner was alive and subsequently only on 06.02.2017 the GPF amount has been released, the Petition cannot be thrown out only on the ground of delay and latches.
6. One should also appreciate the fact that the husband of the Petitioner i.e. the employee concerned after his retirement also was hit by the stroke of paralysis and he had to live his rest of life as a paralytic patient without any retiral or pensionary benefits which was not been released to him. We can visualize and feel the amount of suffering and agony which the Petitioner and her husband must have undergone during these periods coupled with the fact that the Respondent State has not been able to produce a slightest of justifiable reason for not releasing the sum promptly. Thus this Court is inclined to draw an

inference against the State Government for non releasing of the retiral dues and the pensionary benefits immediately, as illegally retained money. Since there is a illegally retained money by the Respondent State the entire amount which has been released belatedly would definitely accrue interest.

7. This view of this Court also stands fortified by a series of decision of the Supreme Court so far as the interest on delayed retiral dues are concerned.
8. It would be trite to refer to the decision of Hon'ble Supreme Court rendered in the case of **D.D. Tewari v. Uttar Haryana Bijli Vitran Nigam Limited & Others [2014 (8) SCC 894]**, wherein, relying upon the decision in the case of **State of Kerala v. M. Padmanabhan Nair [1985 (1) SCC 429]**, it has been held that the pension, gratuity and retiral dues payable to an employee are not a bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in its hands and any culpable delay in settlement or disbursement thereof must be visited with the penalty of payment of interest. The Supreme Court has very categorically held that denial of interest amounts to miscarriage of justice.
9. Similar view has also been taken by the coordinate Bench of this Court in the case of **Punarad Prasad Bhagal v. State of Chhattisgarh & Others**, decided on 18.03.2013 in **Writ Petition (S) No. 5231 of 2011**, wherein the Court has allowed the said petition under similar circumstances.
10. The view of this Court stands further fortified from the decision of the Hon'ble Supreme Court in the case of **State of Uttar Pradesh and Others v. Dhirendra Pal Singh [2017 (1) SCC 49]**.
11. Considering the authoritative decisions of Hon'ble Supreme Court in the

cases of **D.D. Tewari and Dhirendra Pal Singh (Supra)**, this Court is of the opinion that it is a fit case where the Petitioner is entitled for interest on the delayed payment.

12. At this juncture learned State Counsel submits that the GPF amount which has been released to the Petitioner has carried interest. The Petitioner can only be compensated by granting interest for the delayed payment, if any.
13. If interest for delayed payment is not given to the Petitioner it would be great injustice which has been caused to them for living without any retiral dues and pensionary benefits for a period of around 8 years and the GPF amount being released after a period of about 23 years from the date of retirement. Thus this Court has no hesitation in reaching to the conclusion that for the delay in releasing the pensionary benefits and retiral dues to the Petitioner, she is entitled for interest on the said amount as also had no hesitation in holding that the recovery of Rs. 82,760/- which has been made from the pension also is bad in law as the State Government has failed to show any basis on which the recovery has been made. Thus the Petition stands allowed.
14. The amount of recovery made from the pension of 82,760/- be forthwith released to the Petitioner with interest at the rate of 10% per annum from the date of retirement till the date of actual payment. In addition the arrears of pension which has been given to the Petitioner on 23.12.2003 would also carry interest of 10% per annum from the date of retirement till the payment. So far as the GPF is concerned as per the State Counsel the interest has been added, this Court only orders that the said GPF may be verified by the Petitioner whether the amount of GPF payable to the employee interest has been added to the said amount from date of retirement till the date of actual payment. In case

the interest has been paid till the date of payment there would not be any further interest to be paid by the Respondents. If the interest has not been calculated till the date of payment the Respondents are required to pay interest on the GPF amount also at the rate of 10% per annum from the date interest has not been calculated on the said amount till the date of payment.

15. With the aforesaid observation the present Writ Petition stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE