

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3733 of 2013**

Mohammad Iqbal Khan S/o Sukkulal Yadav Aged About 63 Years
R/o House No. 1741, Nurinagar, Main Road Shastri Ward
Gohalpur, Thana Gohalpur, Jabalpur Distt. Jabalpur M.P.

---- Petitioner**Versus**

1. Managing Director, Chhattisgarh State Power Generation Comp. Ltd., Danganiya, Raipur C.G.
2. Executive Director, Office Executive Director Finance, C.G. State Power Generation Company Limited, Danganiya Raipur, Distt. Raipur C.G.
3. Chief Engineer, Office Of Chief Engineer H.R.D. Chhattisgarh State Power Generation Company Limited, Korba East Korba C.G.
4. Superintending Engineer (Hrd), Chhattisgarh State Power Generation Company Limited, Korba East Korba C.G.
5. Senior Accountant (Hrd) Chhattisgarh State Power Generation Company Limited, Korba East, Korba C.G. **---- Respondents**

For Petitioner	:	Mr. R.K. Patel, Advocate.
For Respondents	:	Mr. N.K. Vyas, Assistant Solicitor General

Hon'ble Shri Justice Manindra Mohan Shrivastava**Oral Order****19/07/2017**

Heard.

1. This petition has been filed by the petitioner aggrieved by wrong fixation of his pay and consequent pensionary benefits. The petitioner retired from the post of Supervisor Grade-I on 30.04.2011. Earlier when petitioner's representation was not being decided, a writ petition was filed before this Court which was registered as WPS No.1668 of 2013 and vide

order dated 20.06.2013, the petition was disposed off with the direction to consider petitioner's grievance. In compliance of the order of the Court, the representation of the petitioner was considered but rejected vide impugned order dated 10.09.2013.

2. Learned counsel for the petitioner argued that the respondents committed illegality in the matter of fixation of pay of the petitioner while he was in service. He submits that the pay of the petitioner was not properly fixed in the year 2004 and he was being paid less pay. According to learned counsel for the petitioner, in the matter of fixation of pay, he has been subjected to hostile discrimination in as much as the pay of similarly situated employee namely Ramdayal Shrivastava has been differently fixed at a higher stage and to demonstrate this, learned counsel for the petitioner relied upon his comparative chart annexed along with the petition.

3. Learned counsel for the respondents submits that the petitioner has not independently challenged pay fixation but challenge is based only on the ground that his pay ought to be fixed at par with that of Shri Ramdayal Shrivastava whereas the case of Ramdayal Shrivastava is different from the case of the petitioner for number of reasons. It is submitted that both the employees had a different due date for increment, the date on which they had opted for first and second higher pay scale was also different and Ramdayal Shrivastava was given additional benefit of one increment on 06.04.1988 on the basis of he having undergone family planing operation.

4. Having gone through the pleadings and documents of learned counsel for the parties and the material on record, I find that only basis of grievance of the petitioner as stated in the petition is that he ought to be given the same benefit as was give to another employee Shri Ramdayal Shrivastava. Thus, the petitioner seeks to draw parity.

5. In the return, it has been emphatically stated, which has not been denied by any rejoinder that the case of Ramdayal Shrivastava is different from that of the petitioner due to following reasons :

(a) Shri Ramdayal Shrivastava was given benefit of one increment on 06.04.1988 on the basis of he having undergone family planning operation.

(b) The petitioner submitted first option for higher pay scale on 27.11.1989 due to which, he suffered loss of one increment whereas Shri Ramdayal Shrivastava has opted for first higher pay scale on the date it became due to him with the result that he got benefit of one increment.

(c) The petitioner had opted for second pay scale on 10.05.1997 whereas Shri Ramdayal Shrivastava claimed the same only when it become due.

(d) As Shri Ramdayal Shrivastava had reached the stage of stagnation, his date of increment was changed as 01.12.2005.

(e) The date due for increment in case of the petitioner was after his retirement whereas the date due for increment in case of Ramdayal Shrivastava was prior to his retirement. Thus, the petitioner could not get the increment because he retired before the due date of increment whereas Ramdayal Shrivastava was given the increment as he retired after the due date of increment.

6. In view of the above comparison, it is clear that the petitioner is not justified in claiming parity with the case of the Ramdayal Shrivastava in the matter of fixation of pay.

7. The entire case of the petitioner is based only on the claim of parity and there is no other independent claim.

8. In that view of the matter, this petition is without merit and is therefore dismissed.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E