

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) NO. 951 OF 2017

D.R. Nag, S/o Late Shri Setlal Nag, aged about 63 years, Occupation- Retired Assistant Conservator of Forest, House No. 299, Paras Nagar (Devendra Nagar), Near Shiv Temple, P.S. Devendra Nagar, Raipur (C.G.)

... Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Forest, Naya Mantralaya, Naya Raipur (C.G.)
2. Chief Conservator of Forest, Department of Forest, Jail Road, Aranya Bhawan, Raipur (C.G.)
3. Divisional Forest Officer, Division- Jashpur, District Jashpur (C.G.)
4. Joint Director, Accounts and Pension Department, Ambikapur, District Surguja (C.G.)
5. District Treasury Officer, District Jashpur (C.G.)

... Respondents

For Petitioner	:	Mr. Akhilesh Mishra, Advocate.
For Respondent-State	:	Mr. S.P. Kale, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/02/2017

1. The present petition has been filed by the Petitioner assailing Annexure P-1, dated 23/25.7.2016, and Annexure P-2, dated 29.2.2016, ordering for recovery of an amount of Rs.3,17,701/- from the gratuity amount payable to the Petitioner.
2. The undisputed fact in the instant case is that the Petitioner was initially appointed as Forest Ranger in the year 1980 and retired from services on 29.2.2016 from the post of Assistant Conservator of Forest.
3. The grievance of the Petitioner is that subsequent to his retirement while his retiral dues were being settled, the impugned orders Annexure P-1 & P-2 have been passed wherein it has been said that the Petitioner has been wrongly granted the benefit of 4th stage grade pay with effect from 17.10.2004, whereas it had to be paid to the Petitioner with effect from 22.8.2008 and

therefore it was ordered for the recovery of the excess amount paid and for recovering the said amount from the gratuity payable to the Petitioner.

4. A perusal of the record would show that the Government had issued a circular, Annexure P-3, dated 22.8.2008, wherein it has been said that the employees of the Forest department who have been discharging the duties as Forest Ranger would be given Kramonnati benefit at different stages, which is, the first Kramonnati would be given after completion of 7 years, the second Kramonnati would be given on completion of 17 years and the third Kramonnati would be given after completion of 24 years of service.

5. Undisputedly, the Petitioner was appointed on 17.10.1980. As per the aforesaid policy of the State Government, dated 22.8.2008, the Petitioner would be entitled for the third Kramonnati benefit with effect from completion of 24 years of continuous service, that is, on 27.10.2004 and which has been paid to the Petitioner. Only because the circular of the State Government granting the benefit was issued on 22.8.2008, by itself would not make it prospective, as the circular says that the benefit would be given on completion of stipulated period of time, which in the instant case would be in the year 2004 and which has been given to the Petitioner. This Court does not find any cogent reason on the part of the Respondents for issuing Annexure P-1 and P-2, holding the Petitioner to have received excess amount by way of wrong fixation of pay.

6. Further, it is also a settled position of law that once when the relief has already been granted to an employee, the monetary benefit granted cannot be recovered by the State Government, unless it is held that the amount has been received by the employee by making any false representation or playing fraud, which is not there in the present case.

7. So far as making the circular prospective also it cannot be accepted, for the reason that the circular which has been enclosed with the petition as

Annexure P-3 does not say so. The column mentioned in the said Annexure P-3 clearly shows that the grade pay shall be given to the Petitioner on completion of the specific period of service mentioned in the said Annexure P-3. Thus, in the light of the same, this Court is of the opinion that a strong case for allowing the petition has been made out.

8. Accordingly, the impugned orders, Annexure P-1 and P-2, are set aside and it is ordered that the Respondents shall release the amount withheld by them, i.e. Rs.3,17,701/- forthwith to the Petitioner.

9. The present writ petition stands accordingly allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge