

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 4157 of 2012**

Bhuneshwar Prasad Namdev S/o Shri Sadhram, aged about 68 years,
Ward No. 16, Jhul Kadam, Temar Road Sakti, Po & Tahsil Sakti, District
Janjgir-Champa (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh through Secretary, Education Department, DKS Bhawan, Mantralaya, Raipur, District Raipur (CG)
2. Joint Director, Treasury, Accounts & Pension, Bilaspur, District Bilaspur (CG)
3. The Secretary, Pension Nirakaran Samiti, State of Chhattisgarh Raipur, District Raipur (CG)
4. District Education Officer, Janjgir-Champa, District Janjgir-Champa (CG)

---- Respondents

For Petitioner	:	Shri Dashrath Kushwaha, Advocate
For Respondent/State	:	Shri Ashutosh Pandey, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****25/04/2018**

The relief sought for by the petitioner is for quashment of Annexure P-1 dated 27.08.2012 and for a direction to the respondents for fixing pension of the petitioner as per his last basic pay drawn at Rs.8,500/-.

2. According to the petitioner, on the date of his retirement, he was drawing pay scale of Rs.8,500/- and therefore, for all practical purposes, his pension should have been fixed accepting his last wage as Rs.8,500/-. However, the respondents have fixed the pension considering his basic pay at Rs.8,300/- instead of Rs.8,500/- which according to the petitioner is bad in

law, arbitrary and illegal and deserves to be quashed and he deserves for pension with basic pay of Rs.8,500/-.

3. State counsel, however, opposing the petition submits that the present is a third round of litigation. The earlier writ petitions i.e. WPS 2618/11 and WPS 1067/2012 stood decided on 13.05.2011 and 10.04.2012 respectively whereby the matter was referred to the High Power Committee constituted for redressal of the grievances pertaining to pension and retiral dues of government servants. The case of the petitioner was scrutinized and it was found that the petitioner was inadvertently granted advantage of an extra increment which brought his pay scale at Rs.8,500/- whereas he was entitled for only the basic pay of Rs.8,300/- and the respondents have only reduced the pension by rectifying the error which was crept while granting proper fixation of pay to the petitioner. Thus, prayed for dismissal of the writ petition.

4. Perusal of the record particularly the order of the Committee would reveal that the respondents, on an earlier occasion, had already recovered the excess payment paid to the petitioner by virtue of erroneous fixation of pay and the said recovery made by the respondents is not under challenge in the present writ petition. The only challenge is to the order dated 27.08.2012 Annexure P-1 whereby the claim of the petitioner has been rejected by holding that the respondents have only rectified the error which was crept while granting proper fixation of pay which could be detected only at the time of calculation of pensionary benefits.

5. It is settled position of law that the rectification of an error crept at the hands of the respondents is within the domain and prerogative of the respondents and that the rectification all the more is necessary for the reason that the employee would be getting something which otherwise he is not entitled for under the service rules. In the instant case, this Court does not find any error on the part of the respondents in passing Annexure P-1 dated

27.08.2012 granting pension to the petitioner fixing the pay at Rs.8,300/- instead of Rs.8,500/- to be either perverse or illegal in any manner.

6. The writ petition thus deserves to be and is accordingly dismissed.

**Sd/-
(P. Sam Koshy)
JUDGE**