

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 234 of 2013**

Kunju Prasad Tiwari S/o Shri Mangal Prasad Tiwari, Age – 63, Ret.
Assistant Internal Account Examiner and Taxation Officer, R/o village
& Post Lalbahadur Nagar, Thana – Chicola, Tahsil – Dongargarh,
District Rajnandgaon (CG)

---- Petitioner**Versus**

1. State of Chhattisgarh through its Secretary, Department of Panchayat and Social Welfare, Naya Raipur (CG)
2. Chief Executive Officer, Janpad Panchayat Dongargarh, District Rajnandgaon (CG)
3. Deputy Director, District Panchayat and Social Welfare, District Rajnandgaon (CG)
4. Collector, District Rajnandgaon (CG)

---- Respondents

For Petitioner	:	Shri Parag Kotecha, Advocate
For Respondents/State	:	Shri Ashutosh Pandey, P.L.
For Respondent no.2	:	Shri R. S. Baghel, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****26/04/2018**

The relief sought for by the petitioner in the present writ petition is for a direction to the respondents to release the retiral benefits to him along with interest.

2. The petitioner in the instant case retired from service of the respondents as an Assistant Internal Account Examiner and Taxation Officer 31.03.2010. According to the petitioner, though he stood

superannuated in March, 2010, till date he has not received any of his retiral dues other than pensionary benefits of which also only 90% has been released to him.

3. From the record it reflects that 3 months prior to the date of superannuation i.e. on 30.12.2009, the services of the petitioner were placed under suspension in the light of a criminal case which was registered against him vide criminal case no. 227/09 for the offence punishable under Section 406 of IPC in respect of embezzlement of Rs.1,97,645.62 allegedly to have been committed by the petitioner and other accused persons.

4. Counsel for the petitioner, at the outset, submits that the present writ petition may be disposed of in the light of the decision of this Court in WPS 352/14 decided on 27.11.2015 wherein the High Court had directed the respondents to consider the case of the petitioner for releasing 50% of the gratuity amount during pendency of the judicial proceeding against the petitioner and in respect of the leave encashment, it was ordered that the respondents authority should consider the case of the petitioner and pass a reasoned order.

5. So far as the entitlement and release of leave encashment is concerned, Shri R. S. Baghel, counsel appearing for respondent no.2 submits that there is already an order dated 22.05.2012 sanctioning 146 days of leave encashment to the petitioner.

6. If that be so, the authorities would only verify whether the amount of 146 days of leave encashment has been released to the petitioner or not. If not, the same will be released at the earliest. So far as the gratuity is concerned, applying the principle of law laid down by this court in the case

of Ramlal Sharma Vs. State of Chhattisgarh and others in WPS 352/14 dated 27.11.2015 it is directed that the respondents shall release 50% of the gratuity amount payable to the petitioner within a period of 3 months.

7. With the aforesaid observation, the writ petition stands disposed of.

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