

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4118 of 2013**

Siyaram Verma S/o Late Shri Jairam Verma Aged About 66 Years R/o Bangalipara, Street No.-4, Sarkanda, P.S. Sarkanda, District Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. Chhattisgarh State Co-Operative Marketing Federation Ltd. Through Secretary, C.G. State Cooperative Marketing Federation Ltd. 880 Civil Lines, Head Office Raipur, Chhattisgarh
2. Managing Director, C.G. State Cooperative Marketing Federation Ltd, 880 Civil Lines, Head Office, Raipur, District : Raipur, Chhattisgarh
3. Secretary C.G. State Cooperative Marketing Federation Ltd, 880 Civil Lines, Head Office, Raipur, District : Raipur, Chhattisgarh
4. Chief Accounts Officer C.G. State Cooperative Marketing Federation Ltd, 880 Civil Lines, Head Office, Raipur, District : Raipur, Chhattisgarh
5. State Of Chhattisgarh, Through Secretary Department Of Cooperative Society, Mantralaya, Mahanadi Bhawan, New Raipur, District : Raipur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Chandresh Shrivastava, Advocate
For Respondents No.1 to 4	:	Mr. Prafull N. Bharat, Advocate along with Mr. Akash Pandey, Advocate
For State	:	Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****01/05/2018**

1. The relief sought for by the petitioner in the instant case is for grant of gratuity and the benefits of leave encashment to the petitioner who stands superannuated on 28.02.2006. The only reason for denial of this claim made by the petitioner was on the ground of a pending departmental enquiry against him.
2. The counsel for the petitioner submits that the petitioner herein has superannuated on 28.02.2006. Till the date of his superannuation, there was no service regulation available in the department and as such in the absence of any rule/provision, the respondents could not

have initiated departmental enquiry against the petitioner after his retirement. He further submits that neither does the rule/act provides for withholding of the gratuity or any recovery to be made from the gratuity and prayed for immediate release of these benefits.

3. The counsel for the respondents however submits that it is a case where there were certain irregularities detected after the retirement and immediately a departmental enquiry has been initiated and which till date has not been concluded and therefore the respondents have not released the gratuity amount payable to the petitioner, so also his leave encashment part has not been processed. He further refers to the service regulations applicable in the department, which is the Chhattisgarh State Cooperative Marketing Federation Service Rules, 2007, wherein it has been held that a departmental enquiry could be initiated within two years from the date of his retirement, in case, if the irregularity part has been detected within the said period.
4. Having heard the contentions on either side and particularly taking note of the fact that the petitioner had retired from service on 28.02.2006 and the present writ petition has been filed in August, 2013 i.e. for about more than 7½ years, this itself means the petitioner had submitted himself before the inquiry officer for an appropriate decision and has now filed the writ petition.
5. Thus the respondents would be at liberty to conclude the departmental enquiry initiated against the petitioner. True it is that inordinate delay has been caused on the part of the respondents in concluding the departmental enquiry. The departmental enquiry initiated against a retired employee cannot be kept pending till eternity. There has to be an end to any disciplinary proceedings

initiated and that disciplinary proceedings initiated has also to be concluded at the earliest, particularly when it is a case against a retired person.

6. Given the entire facts and circumstances of the case, this Court is of the opinion that ends of justice would meet if the present writ petition is disposed of with a direction that the respondents No.1 & 2 shall ensure that the departmental enquiry which is pending against the petitioner would be concluded at the earliest within a maximum period of 90 days from the date of receipt of certified copy of this order. That in case if the inquiry is not concluded within 90 days, then it has to be construed as if the departmental enquiry stands dropped against the petitioner. The concerned respondent should pass an appropriate order in this regard after 90 days.
7. The respondents further are directed to release the gratuity amount, so also grant the benefits of the leave encashment forthwith thereafter. The petitioner would also be entitled for interest on the said amount from the date of his retirement till the date of the actual payment is made @10% per annum.
8. The writ petition thus stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge