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HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) NO. 1974 OF 2014

Bhrigunandan Prasad Tiwari S/o Keshav Prasad Tiwari Aged About 63 Years Retired Lecturer, R/o Village and Post Malhar, Distt. Bilspur C.G.

…Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, School. Education Department Mahanadi Bhawan, New Raipur, Chhattisgarh
2. The Secretary Govt. Of Chhattisgarh, General Administration Department, Secretariat, Mahanadi Bhawan, Naya Raipur, Chhattisgarh.
3. The Collector Bilaspur Distt. Bilaspur, Chhattisgarh.
4. District Education Officer, Bilaspur Distt. Bilaspur, Chhattisgarh.
5. Joint Director Treasury Account And Pension, Bilaspur Distt. Bilaspur, Chhattisgarh.
6. Principal Government Higher Secondary School, Budhikhar Post Malhar, Tah. Masturi, Distt. Balaspur, Chhattisgarh.

… Respondent(s)

For Petitioner	:	Shri Jitendra Shrivastava, Advocate.
For Respondent-State	:	Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/05/2018

1. The present is as second round of litigation. According to counsel for the petitioner, the petitioner stood retired from service on the post of Lecturer w.e.f. 31.07.2013. However, he was subsequently not granted the pension and retiral dues payable to him on his retirement.
2. The petitioner preferred a writ petition vide WPS No.3665 of 2013 which ultimately stood disposed of on 01.11.2013 directing the claim of the petitioner to be referred to the Retiral Dues Committee, who in

turn was directed to process the case of the petitioner and take an appropriate decision.

3. The Committee thereafter is said to have passed an order on 24.03.2014 whereby it has been said that the entire retiral dues payable to the petitioner has since been released, nothing further remains to be decided. The petitioner has now filed the present writ petition alleging that though certain dues have been released to the petitioner as is reflected from paragraph 8.11 of the writ petition, but there were certain claims which have not been properly considered. According to petitioner, there was outstanding balance of more than Rs.2.50 Lakhs in his GPF account, but he has only been paid an amount of Rs. 1.47 Lakhs. Thus, he is entitled for the difference of said amount with interest. Likewise, it was also alleged that the petitioner was entitled for leave encashment of 241 days but he has been granted leave encashment of only 195 days and thus there was a balance of 45 days of leave encashment. Likewise, the respondents should have taken into account the past service rendered by the petitioner in a private aided school for a period of 6 years while counting the pension and retiral dues, which again has not been considered by the committee. Moreover, it has been further alleged by the petitioner that the alleged excess payment paid to the petitioner between 17.07.1989 to 31.12.1995 to the tune of Rs.14,581/- recovered from his dues again is bad in law. Thus, prayed that an appropriate direction be given to the respondents to either release the said amount or direct the committee to re-consider the claim of the petitioner so far as the amount which have been left to be finally adjudicated upon.

4. The State counsel on the contrary submits that the petitioner had initially filed a writ petition and the same having been disposed of and the matter having been duly considered by the committee, nothing further remains to be adjudicated upon in the instant case and prayed for dismissal of the petition.

5. Having heard the contentions put forth on either side and on perusal of records, it is trite to take note of the fact that even subsequent to the disposal of the petition and the committee having passed an order on 24.03.2014 holding that entire dues have been paid to the petitioner, the respondents have in the year 2017 released certain additional amount towards leave encashment and thus the total leave encashment which has till now been paid is for a period of 231 days whereas he is entitled for 240 days leave encashment. Thus, there is a difference of 9 days of leave enchasment still left unpaid which is to be considered by the respondents.

6. So far as GPF amount is concerned, the committee constituted by the State Govt. ought to have taken note of the pass book which was maintained in the office of Accountant General and should have tallied it with the passbook which was maintained with the employer and thereafter should have taken into account whether there were any part final withdrawal made by the petitioner and only then should have settled the GPF account. It appears that no such exercise has been done by the committee. The entire proceedings have been disposed of on the sheer submission of facts by the officers of the respondents.

7. The fact whether the past service of the petitioner should have been counted for the purpose of quantifying pension part also has not been taken care of by the respondents. It is a case where the petitioner initially was working with the private aided institution which subsequently was taken over by the State and the services of the petitioner was also absorbed in the State Govt. and as such there was no interruption of service from the initial date of appointment. Moreover, the committee also should have taken into consideration the provisions of the Pension Rules dealing with qualifying service and also the circulars of the State Govt. wherein it has been envisaged that in the event of taking over the private institutions which otherwise were funded by the State Govt. and the employees being absorbed in the service of the State Govt., their past service also has to be taken into account for counting the total length of service. All these aspects seem to have not been considered by the Committee while disposing of the matter on 24.03.2014.

8. In the given facts and circumstances of the case, the matter stands remitted back to the Committee who shall call upon the officers of Accountant General so also the officers of employer and also the petitioner to produce before the Committee the records pertaining to entries made in GPF account along with records pertaining to leaves taken by the petitioner during service period to ascertain the leaves which were in his credit on the date of superannuation and also would take a decision on the past service rendered by the petitioner whether to be treated as qualifying service for pension and retiral dues.

9. Let this exercise be done by the Committee within a period of four months from the date of receipt of certified copy of this order.

10. The petition stand allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder