

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 578 of 2016**

1. Ku. Stuti Arun Kumar Bhivgade S/o Late Arun Kumar Bhivgade, aged about 24 years R/o - LIG - 30, Housing Board Colony, Thelka Boad, Kanker, Post Office Kokpur, District North Bastar Kanker, Chhattisgarh
2. Arijeet Bhivgade S/o Late Arun Kumar Bhivgade, aged about 20 years, R/o - LIG - 30, Housing Board Colony, Thelka Boad, Kanker, Post Office Kokpur, District North Bastar Kanker, Chhattisgarh

---- Petitioners**Versus**

1. State of Chhattisgarh through Secretary, Department of Food and Civil Supply, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh
2. Collector, North Bastar, Kanker, District North Bastar Kanker, Chhattisgarh
3. Accountant General, Office of Accountant General, Opposite Vidhansabha, Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Pawan Shrivastava, Advocate
For Respondents 1 & 2	:	Shri Adhiraj Surana, Dy. Govt. Advocate
For Respondent no.3	:	Shri Rajkumar Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****27/04/2018**

The relief sought for by the petitioner is for a direction to the respondents for settlement of his final pension in stead of 50% which has been released and also for the difference of salary during the suspension period.

2. The petition was originally filed by one Arun Kumar Bhivgade, an employee working with the Food and Civil Supply Department of the State. The petitioner was placed under suspension for having been involved in a criminal case where the charge against the petitioner was under Sections 13 (1) (d) and 13 (2) of Prevention of Corruption Act, 1988. The order of suspension continued till he attained the age of superannuation on 31.10.2012.

3. It has been informed by the counsel for the petitioner that in the said criminal case, the petitioner stood guilty and was convicted for the offence. Against the said judgment of conviction, the petitioner preferred an appeal registered as Criminal Appeal No. 244 of 2017. After the appeal was preferred and the sentence was suspended, the petitioner has now expired and in his place the legal heirs have been substituted in the present writ petition. Counsel for the petitioner submits that the criminal appeal has subsequently been dismissed as having abated. Therefore, the respondents may consider grant of full pension and for the difference of salary during the period of suspension.

4. Given the facts, as the order of conviction stands so far as the employee Arun Kumar Bhivgade is concerned, this Court does not find any strong case made out by the petitioners for grant of balance of pension and other retiral dues payable to the employee, until the order of conviction is set aside by the appellate Court. The only requirement left now for the respondents, is to pass an appropriate order in the light of Rule 8 of the Chhattisgarh Civil Services (Pension) Rules, 1976.

5. Reserving the right of the petitioners to challenge the judgment of conviction before the competent Court of law, the present writ petition

stands disposed of as of now and in case the judgment of conviction is set aside, the petitioners would be at liberty to revive their claim thereafter.

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

Bhola