

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 2208 of 2011**

G. S. Chouhan S/o Shivpal Singh Chouhan, aged about 64 years, C/o Ashish Chauhan, Chouhan Electronic Laxman Naar, Gali No.1, Post Office Ganj, Raipur, CG

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Department of Panchayat and Social Welfare Raipur, D.K.S. Bhawan, Raipur, Chhattisgarh
2. Chief Executive Officer, Zila Panchayat, Raipur, District Raipur (CG)
3. Chief Executive Officer, Janpad Panchayat, Tilda, District Raipur (CG)
4. Janpad Panchayat, Tilda, through its president Janpad Panchayat, Tilda, District Raipur (CG)

---- Respondents

For Petitioner	:	Shri R. K. Pali, Advocate
For Respondent/State	:	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****16/03/2018**

The challenge in the present writ petition is to the order dated 04.10.2007 passed by the respondent no.3. It was also prayed that respondent no.3 may create a fund from the contribution made by the petitioner and similarly placed persons which may be used as a pension fund and suitable pension may be granted to the petitioner.

2. The facts of the case are that the petitioner in the instant case stood retired on 31.10.2007 from the office of respondent no.3 where he was working on the post of lower division clerk . The services of the petitioner were not pensionable. The General Body of Janpad Panchayat Tilda vide resolution dated 04.03.2003 resolved that they shall create a pension fund by taking appropriate direction from the employees working in the Janpad

Panchayat, Tilda and the amount getting deposited in the said fund shall be used for providing pension to the employees under Janpad Panchayat, Tilda. Subsequently, respondent no.3 issued the impugned order dated 04.10.2007 Annexure P-7 stating that since Janpad Panchayat has not received any approval from the competent authorities under the State Government, the fund was not being operated and it was ordered that all the amount collected in between should be refunded back to the concerned employees. It is this order which is under challenge in the present writ petition.

3. Prima facie what is not in dispute is the fact that the services of the petitioner were not pensionable service. The scheme framed under different pension schemes applicable in the State of CG has not been applicable so far as the employees of Janpad Panchayat is concerned. Though the power lies with the State Government under Section 95 of the Municipal Corporation Act for making suitable Rules but till date the State does not seem to have prepared any such rules and scheme which would be applicable in respect of the employees likewise the petitioner. Moreover, it was the Janpad Panchayat who has prepared the scheme. If we take into consideration the scheme which has been prepared by respondent no.4 , unless the same gets approval from the Government, the same cannot be said to be a valid scheme and the order passed by the respondent no.3 in keeping the said resolution of the Janpad Panchayat in abeyance cannot be found fault with.

4. Given the facts and circumstances of the case and also taking into consideration the legal position as it stands, the present writ petition does not have any force and the same is accordingly rejected. However, the petitioner would be at liberty for approaching the concerned authorities under the respondents who can look into the matter keeping in view the object behind it and can consider framing of appropriate rules if it so warrants.

5. With the aforesaid observation the present writ petition stands disposed of.

6. At this juncture, counsel for the petitioner makes a submission that the contribution which the petitioner has given to respondent no.4 for pension fund, the same till date has not been refunded to the petitioner though considerable period has lapsed.

7. However, State counsel in turn submits that the said amount has already been refunded to the petitioner.

8. Let the petitioner, if the said amount till date has not received, move an appropriate representation to respondent no.4 and on receipt of the said representation, the respondent no.4 shall forthwith decide the same specifically dealing with the amount of contribution made by the petitioner and if it is still lying with the respondents, the same shall be refunded to the petitioner with interest that would accrue on the said amount.

Sd/-
(P. Sam Koshy)
JUDGE