

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 6345 of 2010**

Rajkant Shukla, s/o. Late Shri Gangadhar Shukla, Aged about 69 years, Retired Assistant Director of Agriculture, Sitapur, District Sarguja, Chhattisgarh, Present Address-297/2, Sanjay Nagar, COD, Road Naini, Allahabad (U.P.)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Agriculture, Dau Kalyan Singh Bhavan, Mantralaya, Raipur, Chhattisgarh
2. State of Chhattisgarh, through the Secretary, Department of General Administration (Member Secretary, Pension), Dau Kalyan Singh Bhawan, Mantralaya, Raipur, Chhattisgarh
3. State of Madhya Pradesh, Through the Secretary, Department of Agriculture, Vallabh Bhawan, Bhopal, Madhya Pradesh
4. The Director, Department of Agriculture, Raipur, Chhattisgarh
5. The Director, Department of Agriculture, Bhopal, Madhya Pradesh
6. The Collector, Sarguja, Ambikapur, District Sarguja, Chhattisgarh
7. The Deputy Director, Department of Agriculture, Ambikapur, District Sarguja, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Himanshu Kumar Sharma, Advocate on behalf of Mr. Sushil Dubey, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer
For respective Respondents	:	Mr. Avinash Choubey, Advocate under instructions of Mr. Rajeev Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****24/04/2018**

1. The claim by the petitioner in the present writ petition is for grant of difference of salary and pension with arrears on account of non-granting of promotion at par with his immediate junior namely S.K. Batham, who was promoted on 23.11.1988.
2. Present is the second round of litigation. The earlier litigation was vide WP No. 543/2005, which this Court had on 13.03.2008 disposed off directing

the matter of the petitioner to be placed before the High Power Committee constituted by the State Government for redressal of the benefits pertaining to the pension and retiral dues are concerned. The case of the petitioner stood processed by the said High Power Committee and the said High Power Committee passed an order on 28.08.2008 and during the course of scrutiny, the committee found that the petitioner was in fact entitled for being promoted as an Assistant Director over and above his immediate junior namely S.K. Batham, who was granted promotion in the year 1988. Accordingly, the committee ordered for granting the notional promotion to the petitioner as an Assistant Director (Agriculture) placing him above his immediate junior i.e. S.K. Batham. While passing the order, the committee further observed that the petitioner would be entitled for only notional benefits and he would not be entitled for any difference of wages, allowances or arrears in this regard. Though the petitioner has not challenged the said order in the present writ petition, but his substantive relief sought for appears to be the same.

3. Undisputedly, the petitioner stood retired from the service of the respondents w.e.f. 31.01.2001 from the post of Assistant Director (Agriculture). The petitioner subsequent to his retirement had raised the grievance of his not being granted a promotion simultaneously or ahead of his immediate junior S.K. Batham. The petitioner subsequently filed a writ petition, which stood disposed off. Thereafter the committee had processed the case and has found that the grievance of the petitioner was genuine. The committee had ordered for granting the benefits to the petitioner except for the actual monetary benefits to the extended i.e. by granting notional benefits and notional fixation to the petitioner.

4. This Court in the given facts and circumstances of the case, particularly the fact that the writ petition filed by the petitioner itself was subsequent to the petitioner's retirement, he would not be entitled for any monetary benefits for the intervening period i.e. from the year 1988 to the date of retirement i.e. 31.01.2001. However, since the committee had found that the petitioner is entitled for the promotion at par with immediate benefit and has granted promotion providing notional fixation of his salary, the petitioner however would be entitled for all retiral benefits payable to him at the revised rate including the pension and pensionary benefits to be provided.
5. The petitioner cannot be put to loss of the arrears of enhanced pension or the arrears of retiral dues when calculated based on the revised pay scale to be provided to the petitioner as a consequence of providing the notional fixation. Thus, this Court is of the opinion that the petitioner would be entitled for the monetary benefits of only the retiral dues including the pension and retiral benefits and would not be entitled for actual monetary benefits for the intervening period from 1988 to January, 2001.
6. Thus the writ petition stands partly allowed and it is ordered that the petitioner be paid the difference of retiral dues and the arrears of difference of pension that would accrue by virtue of the re-fixation of his pay pursuant to the order Annexure P/1 dated 28.08.2008.
7. The writ petition thus stands partly allowed.

Sd/-
(P. Sam Koshy)
Judge