

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 185 of 2018**

- Krishna Kumar Sahu S/o Shri Mukund Sahu, Aged About 67 Years R/o Rasoda, P.S. Basna, District Mahasamund Chhattisgarh.

---- Appellant**Versus**

1. The State of Chhattisgarh Through The Secretary, Agriculture Department, Mantralaya, Mahanadi Bhawan, Raipur, District Raipur Chhattisgarh.
2. Managing Director, Chhattisgarh Rajya Krishi Vipnan Board, Teli Bandha Raipur Chhattisgarh.
3. Joint Director, Chhattisgarh Rajya Krishi Vipnan Board, Raipur Chhattisgarh.

---- Respondents

For Appellant	:	Shri Raghvendra Pradhan, Advocate
For Respondent No.1/State	:	Shri U.N.S. Deo, Government Advocate
For Respondent No.2 & 3	:	Shri Y.S. Thakur, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Prashant Kumar Mishra, Judge****Order on Board****Per, Ajay Kumar Tripathi, Chief Justice****25.07.2018**

1. The appeal is against an order dated 07.02.2018 passed by the learned Single Judge who gave a direction for payment of full pension to the Appellant along with arrears of pension, however, gratuity was ordered to be withheld till conclusion of departmental enquiry.
2. Aggrieved by the order of the learned Single Judge especially with regard to post retiral dues and non payment of gratuity that the appeal has been preferred.
3. The Appellant was working on the post of an Accountant in Chhattisgarh State Agricultural Marketing Board. He superannuated on 31.03.2010. Sometime in the year 2006, a departmental enquiry was initiated and charge-sheet dated 11.09.2006 was issued upon him. The essence of the two charges

primarily related to failure on the part of the Appellant to be diligent in performance of his duty as an Accountant.

4. Case of the Appellant is that after issuance of the charge-sheet, he has filed his show-cause, offered his explanation, but thereafter the departmental enquiry has not moved an inch. 12 years have gone passed which includes 8 years after his retirement and the issue is still hanging fire.
5. The stand of the Marketing Board before the writ Court was that since there was a departmental enquiry against the Appellant, therefore, he is not entitled to payment of pension, gratuity etc. However, since the Court was not satisfied with the extreme stand taken, pension was authorised but gratuity was ordered to be withheld due to pendency of a departmental enquiry and on the basis of so-called amendment brought to Rule 64(c) of the Chhattisgarh Civil Services (Pension) Rules, 1976.
6. In addition, the explanation offered by the Marketing Board is that a criminal case was filed against one Md. Yasin and all the relevant documents etc. were seized by the Investigating Authority earlier and the same has been filed before the Court of Judicial Magistrate First Class in Saraipali and in absence of those records being available, the Respondent authorities are helpless. Their efforts at the getting certified copy have also not succeeded.
7. One thing is evident that the Appellant has not been charged with any embezzlement, the charges are against other persons or accused. In fact, the Appellant was shown as a witness in the criminal case,

therefore, pendency of the criminal case has nothing to do with the present appeal.

8. So far as the departmental proceeding is concerned, admitted positions of the Respondent authorities are that they have nothing at present in hand which can facilitate holding of a departmental proceeding against the Appellant and that is the reason for departmental enquiry not moving forward since 2006.
9. The failure on the part of the Respondent authorities to conclude the departmental proceeding within a reasonable time frame surely violates the constitutional right of the Appellant under Article 21 of the Constitution of India. There has to be some co-relation between the time when the set of charges were sought to be brought against him and when the proceeding must conclude one way or the other. Prolonged or excessive delay in conclusion of such proceedings is not in the interest of the establishment or the employee.
10. In totality, therefore, we direct the Respondents that the departmental proceeding against the Appellant must be concluded within a period of four months from today. Failure to do so would mean that the charge-sheet issued against him dated 11.09.2006 which is Annexure-P/1 to the writ application and the additional charge-sheet dated 22.03.2007 would be deemed to be quashed.
11. It goes without saying that the withheld gratuity and other post retiral benefits will all accrue in favour of the Appellant after the time frame fixed by the Court expires or the departmental enquiry is concluded.

12. The Appeal stands disposed off with the above direction and liberty. The Appellant shall render full co-operation in the departmental proceedings so that the same is concluded within the time frame indicated.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Prashant Kumar Mishra)
Judge