

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (S) No. 2172 of 2012**

Sunder Lal Kashyap S/o Late Kapoor Chand, R/o Gram and Post Makari,
Tahsil Kondagaon, District Bastar, CG

---- Petitioner**Versus**

1. State of Chhattisgarh through Commissioner, SC ST Development Department, Raipur, CG
2. Assistant Commissioner, Adivasi Vikas Branch, Jagdalpur, Distt. Bastar, CG
3. Block Education Officer, Adivasi Vikas, Makari, Distt. Bastar, CG

---- Respondents

For Petitioner	:	Shri Rajendra Kumar Patel, Advocate
For Respondent/State	:	Shri Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****26/03/2018**

Present writ petition has been filed seeking for a direction to the respondents for considering the claim of the petitioner for grant of pension.

2. The facts of the case, relevant for adjudication of the dispute, are that the petitioner was appointed on 19.02.1965 as an assistant teacher. He worked continuously on the said post till 20.12.1993. Thereafter, the petitioner was absent from duty for a considerable period of time. It is said that the petitioner while being absent from duty had filed an application for grant of voluntary retirement on 20.04.2002. The said application was also forwarded to the higher authorities in the Department but no action was taken. Meanwhile, the Department issued a charge sheet to the petitioner on 04.02.2003. An enquiry officer was also appointed to inquire into the alleged misconduct of unauthorized absence against the petitioner. The petitioner appeared before the enquiry

officer and participated in the enquiry. Thereafter an enquiry report was submitted to the Disciplinary Authority on 23.08.2004. Based on the enquiry report, finally the services of the petitioner stood terminated vide order dated 13.10.2008 Annexure R-4 enclosed with the reply filed by the State.

3. The said order of termination dated 13.10.2008 has not been challenged by the petitioner before any forum or Court of law and the same, by efflux of time, has attained finality.

4. Given the aforesaid facts and circumstances of the case, since the petitioner's services stood terminated, the issue of grant of pension and pensionary benefits does not arise. Unless the order of termination is challenged and set aside, the petitioner would not be in a position to claim for pensionary benefits. It appears that the petitioner has not challenged the order of termination neither has he in spite of reply having been filed by the State moved an appropriate application for amendment in the present writ petition challenging the termination order also.

5. Taking into consideration the provisions of the pension rules wherein it stipulates that the dismissal or removal from government service automatically disentitles the person for pensionary benefits, this Court, at this juncture, is of the opinion that no strong case has been made out by the petitioner for issuance of an appropriate direction for grant of pensionary benefits.

6. The writ petition thus being devoid of merit, deserves to be and is accordingly dismissed. However, taking into consideration the peculiar facts and circumstances of the case, particularly the reasons assigned for his being unauthorizedly absence, the petitioner would be at liberty, if he so chooses, to challenge the order of termination.

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