

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.5924 of 2016**

Anil Kumar Verma, son of Late Shri Naresh Kumar Verma, aged about 62 years, retired Executive Engineer, Rural Engineering Services, resident of Behind Lafa Gas Godown, Shubham Vihar, Mangla, Bilaspur, District Bilaspur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Panchayat and Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, Dist. Raipur (CG)
2. Chief Engineer, Rural Engineering Services, Development Commissioner Office, Civil Lines, Raipur (CG)
3. Deputy Director (Finance), Rural Engineering Services, Development Commissioner Office, Civil Lines, Raipur (CG)
4. Director, Treasury, Accounts and Pension, Anand Nagar, Raipur, District Raipur (CG)

---- Respondents

For Petitioner	:	Mr.Amrito Das, Advocate
For Respondents	:	Mr.R.N.Pusty, G.A. and Mr.D.R.Minz, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

06/02/2018

1. Learned counsel for the petitioner would submit that the petitioner retired from service on 31.8.2015 from the post of Executive Engineer, but till this date, amount of gratuity, GPF and leave encashment have not been paid to him and 10% pension has been withheld and admittedly, no departmental enquiry or criminal proceeding was pending against him on the date of his retirement and after retirement no departmental enquiry has been initiated with the leave of His Excellency the Governor, therefore, there is no reason to withhold the aforesaid dues from the petitioner.
2. On other hand, learned Government Advocate and learned Deputy Government Advocate would submit that no

departmental enquiry or criminal proceeding is pending against the petitioner as report has been sent to the Government on 25.11.2016 for recovery of certain dues, therefore, retiral dues have not been paid to the petitioner.

3. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the records with utmost circumspection.

4. It is not in dispute that neither departmental enquiry nor judicial/criminal proceeding was pending against the petitioner on the date of his retirement. It is also not in dispute that no departmental proceeding has been initiated against the petitioner for misconduct during his service tenure with the leave of His Excellency the Governor under Section 9(2) of the Chhattisgarh Civil Services (Pension) Rules, 1976 after his retirement. Therefore, merely on the basis of some memo issued by the Chief Engineer to the Government, retiral dues cannot be withheld as it has been held that the pensionary benefits payable to a government servant is not a bounty but it is the property of the concerned employee (See State of **Jharkhand Vs. Jitendra Ku. Shrivastava**¹, **D.D. Tewari Vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Others**² and **State of Kerala Vs. M. Padmanabhan Nair**³.)

5. In view of the above, the writ petition is allowed and the respondents are directed to release the amount of gratuity, GPF,

1 (2013) 12 SCC 210

2 (2014) 8 SCC 894

3 (1985) 1 SCC 429

leave encashment and full pension with interest at the rate of 8% to the petitioner. However, this will not bar the respondents to proceed in accordance with law. No cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-