

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3058 of 2015**

Laxman Prasad Yadav, S/o Late Shri Dhansai, Aged About 66 Years
Retired Chowkidar Of Rural Engineering Services, Sub Division
Sarangarh, District Raigarh Chhattisgarh R/o Sarangarh, P.S. And
Tahsil Sarangarh, Civil And Revenue District Raigarh Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgarh
2. Development Commissioner, Chhattisgarh Raipur, District Raipur Chhattisgarh
3. Collector Finance Department, Raigarh District Raigarh Chhattisgarh
4. Executive Engineer, Rural Engineering Services, Division Raigarh, District Raigarh Chhattisgarh
5. Sub Divisional Officer, Rural Engineering Services, Sub Division Sarangarh, District Raigarh Chhattisgarh

... Respondents

For Petitioner	:	Mr. Indra Sen Sahu, Advocate
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****07/08/2018**

1. The present writ petition has been filed by the petitioner seeking for grant of regular pay scale for the period between 20.07.1998 to 02.09.2008 and also has sought for a relief of a direction to the respondents to pay the retiral dues in accordance with the revised pay after granting the regular pay scale from 1998 onwards.
2. The brief facts of the case is that the petitioner was appointed as a Khalasi/Chowkidar at the fixed pay scale of Rs.80/- per month vide order dated 05.03.1969 by Janpad Panchayat, Sarangarh and in due

course of time the petitioner was also granted regular pay scale of Rs.725-900/- as per notification dated 01.08.1987. However, the said pay scale was withdrawn by the order of Commissioner, Municipal Corporation, Bilaspur vide his order dated 06.03.1998. In due course of time, the services of the petitioner was regularized on 30.09.2008 and later on w.e.f. 30.06.2010 the petitioner stood retired from service on attaining the age of superannuation.

3. So far as the order of withdrawal of the regular pay scale by the Commissioner vide his order dated 06.03.1998 is concerned, similarly situated other employees in the department had filed a writ petition before this High Court vide WPS No. 1914/2005, and the said writ petition stood disposed of on 13.03.2008 in the light of the earlier decision by this Court in WPS No. 1861/2005 decided on 27.02.2007 in the case of "Ram Dulare Prajapati & Ors. Vs. State of Madhya Pradesh & Ors."
4. The counsel for the petitioner submits that as per his instructions after the judgment of this Court in the case of "Ram Dulare Prajapati" (supra) decided by this Court on 27.02.2007 and also the order passed by this Court on 13.03.2008 in the case of "Shatrughan Sahu & Ors. Vs. State of Madhya Pradesh" in WPS No. 1914/2005, the respondents have considered their claim and have granted them the relief. According to the petitioner, since the petitioner is also identically placed, he would also be entitled for similar benefit that has been granted to those petitioners in the aforesaid two writ petitions. According to the petitioner, let the respondents scrutinize the case of

the petitioner also and if the petitioners in the aforesaid two writ petitions have been granted the benefit of regular pay scale between the period between 20.07.1998 to 02.09.2008, the petitioner be also granted similar benefits. The respondents may further be directed to provide retiral dues also in the light of subsequent developments.

5. The State counsel however opposing the petition submits that the present writ petition suffers from delay and laches as the petitioner while in service did not challenge the action on the part of the respondents in withdrawing the regular pay scale and that post retirement the petitioner has filed this writ petition which therefore should be dismissed on the ground of delay alone.
6. Having heard the contentions put forth on either side and on perusal of record, what cannot be brushed aside is the undisputed fact that the action on the part of the respondent-Commissioner, Municipal Corporation in withdrawing the regular pay scale granted to the petitioner in the year 1998 was subjected to challenge before this Court by way of two writ petitions and this Court has already held the said action to be bad in law and illegal in the case of "Ram Dulare Prajapati" (supra) and in due course of time the same has attained finality. That, if the similarly placed persons in the department have been granted the advantage of the regular pay scale from 1998 onwards till 2008, this Court does not find any good reason why similarly and identically placed persons should not have been granted the benefits accrued to them and that the department is not expected of making all the similarly placed persons to approach the Court of law

and obtain an order if they intend for a relief. However, it appears that there is some delay caused at the hands of the petitioner in approaching the Court and for the said reason, this Court is of the view that all that reliefs which this Court would like to grant is that if similarly placed persons have been granted the regular pay scale between 20.07.1998 to 02.09.2008. The petitioner also should be notionally given the said benefit for the intervening period and accordingly his wages should be revised. That the petitioner however would be entitled for the actual monetary benefits on the revised pay, so far as his retiral dues and pensionary benefits are concerned. The claim of the petitioner thus should be accordingly decided and settled within a period of 4 months from the date of communication of this order.

7. It shall be the responsibility of the petitioner to appraise the respondents so far as the order passed by this Court is concerned.
8. The writ petition accordingly stands partly allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge