

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 573 of 2018**

Dwas Ram Yadav Late Shri Panch Ram Yadav, Aged About 64 Years Retired Clerk, R/o Purani Basti, Rautpara, Janjgir, District Janjgir-Champa, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through The Secretary, Department of Panchayat And Rural Development, Mahanadi Bhawan, New Raipur, Chhattisgarh.
2. Director, Directorate of Panchayat And Social Services, Mahanadi Bhawan, New Raipur, Chhattisgarh.
3. Jila Panchayat Janjgir Champa, Through Chief Executive Office, Jila Panchayat Janjgir Champa, Janjgir, District Janjgir Champa, Chhattisgarh.
4. Janpad Panchayat Balauda Through Chief Executive Officer, Janpad Panchayat Baluda, District Janjgir Champa, Chhattisgarh.
5. D. K. Kaushik Chief Executive Officer, Janpad Panchayat Balauda, District Janjgir Champa, Chhattisgarh.

---- Respondents

For Appellant	: Shri Alok Kumar Pandey, Advocate.
For Respondent/State	: Shri UNS Deo, Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Prashant Kumar Mishra, Judge

Order on Board**06/08/2018****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. Writ application of the Appellant was dismissed by the learned Single Judge vide his order dated 13th March, 2018. The prayer made in the writ application was to give a direction for payment of salary for the period February, 2003 to April, 2003 with interest @ 10% per annum.

3. The Appellant is a Government servant and he was working as Clerk Grade-I in Janpad Panchayat, Baloda, District Janjgir-Champa. His date of birth as per service record is 26th April 1944 and therefore, his superannuation was scheduled for 30th April 2002.
4. It is the case of the Appellant that the Panchayat authorities took a resolution to extend his services by one year and therefore, he was allowed to continue. Salary however, for three months has not been paid. Thereafter, he approached the High Court.
5. The Appellant had approached the High Court earlier in Writ Petition (S) No.631 of 2009, which was disposed off with a direction upon the Respondents to consider his claim. The Chief Executive Officer, Janpad Panchayat, Baloda, District Janjgir-Champa after examining the history and records of the claim of the Appellant, passed a speaking order on 2nd March 2009. Copy of which is Annexure P/1 to the writ application wherein the findings are that the Appellant had to retire on 30th April 2002, but by fraud and manipulation, he managed to get his services extended by one year. He cannot be rewarded for the same.
6. Any Government employee continuing in service after his date of superannuation without the due approval of the competent authority in the State cannot use it as the basis for any kind of claim against the State. Since the age of superannuation for a Government employee is fixed at 60 years, therefore, the Janpad Panchayat had no power or authority to extend the services of a Government employee beyond 60 years.
7. There is no dispute about the date of birth of the Appellant being reflected in the service records. In yet another proceeding before the Controlling authority under the Payment of Gratuity Act, 1972, the Assistant Labour Commissioner (State) has also accepted and recorded the date of birth of the Appellant as

26th April 1944, therefore, he was to retire and should have retired on 30th April 2002 and any service rendered thereafter was illegal.

8. The learned Single Judge therefore rightly dismissed the writ application of the Appellant refusing to give any direction for payment of salary for a period February, 2003 to April, 2003. However, keeping in mind that work was taken from the Appellant and no person is expected to work gratis, therefore, the payment of salary which has been made to him for the actual period of work may not be required to be recovered, but there cannot be any direction for payment of salary for the period February, 2003 to April, 2003 on the basis of extension of one year of service, illegally.

9. The appeal has no merit. It is dismissed subject to above observation.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Prashant Kumar Mishra)
JUDGE