

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 3747 of 2015**

M. Z. Aarif S/o Late Shamshuddin, aged about 62 years, Tulsipara,
Sadhu Chawl, Ward No. 18, District Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. State of Chhattisgarh through Secretary, Law and Legislative Affairs Department, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Registrar General, High Court of Chhattisgarh, High Court Campus, Bilaspur, Chhattisgarh
3. District Judge, District Rajnandgaon, Chhattisgarh
4. Director, Treasury, Accounts and Pension Department, Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Anup Majumdar, Advocate
For Respondents 1 & 4	:	Shri Adhiraj Surana, Dy. Govt. Advocate
For Respondents 2 & 3	:	Smt. Fouzia Mirza, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

01/05/2018

The present writ petition has been filed by the petitioner seeking for a direction against the respondents to provide the pay scale of Reader Grade-I w.e.f. 17.06.2013 and accordingly to fix the pension payable to the petitioner.

2. According to the counsel for the petitioner, the Government of Chhattisgarh had issued an order dated 28.02.2009 upgrading the pay scale of different non-judicial posts available in the district courts. So far

as the post of Reader Grade-II is concerned, the pre-revised pay scale was Rs.4,000 – 6,000 and the upgraded pay scale was Rs.4,500 – 7,000. He submits that since the petitioner was the senior most person available in the first track Court, his post should have been construed as if it was that of Reader Grade-I and the upgraded pay scale of Reader Grade-I was Rs.5,500 – 9,000. According to the counsel for the petitioner, the case of the petitioner was processed by the department and it was also recommended for upgrading the post which the petitioner was holding to that of Reader Grade-II. However, before a decision or an order could be passed in this regard, the petitioner stood superannuated from service on 31.07.2013. According to him, since the petitioner had discharged the duty of Reader Grade-I from 17.06.2013 to 31.07.2013, the petitioner would be entitled for the pay scale of that of Reader Grade-I and accordingly his pension ought to have been revised and properly fixed.

3. Counsel appearing for the respondents have taken a categorical stand that the substantive post which the petitioner was discharging was that of Assistant Grade-II and he continued on the said post till the date of his superannuation i.e. 31.07.2013. The petitioner has also been paid all the retiral dues and pensionary benefits that is applicable to the post of Assistant Grade-II. According to the respondents, the petitioner has never been issued with an order of promotion on the part of Reader Grade-II or Grade-I. According to the respondents, on the creation of first track court, the petitioner was posted on the said post but was substantively posted that of an Assistant Grade-II alone and in the intervening period, for a brief period he may have discharged the duties of a presenting officer in the Court but that itself would not give an

indefeasible right in favour of the petitioner claiming for the benefits which were otherwise attached to the post of Reader Grade-1 or Grade-II.

4. Having heard the contentions put forth on either side and on perusal of the record, particularly taking note of the note sheets which were processed in this regard, it clearly reflects that the petitioner at no point of time was issued with an order of promotion to the post of Reader Grade-II nor was there any order granting him the benefit of upgraded pay scale of Reader Grade-I. Thus, the relief sought for by the petitioner only on account of his having discharged the duties of presenting officer in the Court by itself is not sustainable and the writ petition being devoid of merit deserves to be and is accordingly dismissed.

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