

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5320 of 2018**

Bharat Lal Dewangan S/o Late Shri Khusru Ram Dewangan, Aged About 62 Years, Post Retired Attendant, R/o Village Kasahi, Post Dondilohara, Block Dondilohara, Tahsil Dondilohara, District Balod, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh through the Secretary, Veterinary Department, Ministry Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. The Director, Directorate of Veterinary Services, GE Road, Opposite Guru Teg Bahadur Garden, Raipur, District Raipur, Chhattisgarh
3. Deputy Director, Department of Veterinary Services, Balod, District Balod, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Alok Kumar Dewangan, Advocate
For State	:	Shri Dhiraj Wankhede, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****20.08.2018**

The claim of the petitioner in the present writ petition is for grant of salary and other benefits which the petitioner would be entitled for the period from 29.03.2011 to 22.08.2017 and for grant of his retiral dues after granting the benefits for the intervening period.

2. The facts leading to the filing of the present writ petition are that the petitioner was working as an Attendant with the respondents. He was

charged for an offence under Section 304 B of IPC by his daughter-in-law and he was prosecuted for the said offence. The petitioner was convicted in the said case and on account of conviction the petitioner was removed from service w.e.f. 28.03.2011. The order of conviction stood set aside in an appeal by the High Court vide judgment dated 18.02.2016. After the judgment of acquittal, the petitioner was granted reinstatement and he joined his duties on 23.08.2017 and finally the petitioner superannuated from service w.e.f. 31.01.2018. The difficulty or grievance of the petitioner is that the respondents authorities have not passed an order which they are supposed to pass on his reinstatement as is required under Rule 54 A of the Fundamental Rights.

3. Under Rule 54A of the Fundamental Rights, the authority concerned has to take a decision as to how the intervening period during which the petitioner was not in employment has to be treated and whether the petitioner would be entitled for all monetary benefits for the said period or not.

4. Undisputedly, since there is an order of acquittal in his favour and the petitioner has been reinstated, the said intervening period for all practical purposes has to be treated as period spent on duty for the purpose of qualifying service while calculating the total length of service. The authority concerned, however, has to only decide as to whether the petitioner would be entitled for actual monetary benefits for the intervening period or not. The respondents while passing the order Annexure P-1 dated 23.08.2017 has left it for the appropriate Court to take a decision which is totally uncalled for as the matter of the petitioner was not pending before any Court of law which could take a decision on this. Moreover, it is the duty

casted upon the respondents to take a decision under Rule 54A of Fundamental Rights.

5. For the said reasons, the impugned order to the extent of leaving the intervening period undecided is set aside and the matter stands remitted back to the respondents to take a decision so far as the entitlement of the petitioner for granting of actual monetary benefits for the intervening period i.e. between 29.03.2011 to 22.08.2017 is concerned. In any case, the said period has to be treated as period spent on duty and the petitioner would be entitled for all retiral dues accordingly.

6. With the aforesaid observation, the writ petition stands allowed and disposed of.

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