

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4766 of 2007

Daljeet Singh Kukreja S/o Shri Gurubakhsh Singh, Aged About 67 Years,
Retired Dy. Commanded Police Resident B-9 Nehru Nagar, Bilaspur, CG

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Home Department, D. K. S. Bhawan, Mantralaya, Raipur (CG)
2. State Of Madhya Pradesh Through Secretary, Home Department Vallabh Bhawan, Bhopal (M.P.)
3. Director General Of Police, Police Head Quarter, Bhopal (M.P)

---- Respondents

For Petitioner	:	Mr. Sandeep Dubey, Advocate
For State	:	Mr. Anshuman Shrivastava, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12/03/2019

1. The instant writ petition has been filed claiming for the following relief:

“That the Hon'ble Court may kindly be pleased to issue writ of mandamus to direct to respondents for granting senior pay scale from the year 1989 and selection grade pay scale from the year 1994 along with all consequential benefits.”

2. The brief facts relevant for decision of the present writ petition are that the petitioner was initially appointed in the Police Department of the respondents in the year 1964. That on getting usual promotions the petitioner finally got promoted on the post of Dy. Superintendent of Police on 06.08.1983 on which post he was later on confirmed on 08.06.1984. The petitioner, on attaining the age of superannuation,

retired from service w.e.f. 01.06.2000. The present writ petition was filed on 06.08.2007 i.e. after about 7 years from the date of retirement.

3. According to the petitioner, as per rules, the petitioner would have been entitled for grant of senior pay scale on completion of 6 years service which he completed on 01.08.1989. However, the senior pay scale was granted to the petitioner only w.e.f. 10.06.1993, as such, the granting of senior pay scale got delayed by about 4 years. It is also the contention of the petitioner that he should have been further granted the selection grade pay scale again on completion of 4 years that would have been in the year 1993 but was granted only w.e.f. 01.03.1998 in stead of 1993. According to the petitioner, he has been repeatedly making representations in this regard but there was no response from the department and finally vide Annexure P-13 dated 08.05.2007, his claim was rejected which led to the filing of the present writ petition.
4. The respondent State in their return have stated that it is not a case where the petitioner was not granting senior pay scale but on due consideration, the petitioner was found ineligible as there were certain adverse entries in the ACRs of the previous years of the petitioner.
5. Though the petitioner by way of a rejoinder has denied the contention of the State of there being any adverse entry and if at all if there is any adverse entry in the ACR, the same has been uncommunicated and as such, the uncommunicated ACR could not have been used against the petitioner denying him the senior pay scale.
6. However, countering this, the respondents filed an additional affidavit as per the direction of this Court on 27.07.2009 along with two documents i.e. Annexure R-1 dated 26.08.19987 showing communication of the ACR for the period ending 31.03.1987 and R-2

dated 31.10.1991 showing communication of the ACR for the period ending 31.03.1988 and both were communicated to the petitioner.

7. In view of the aforesaid additional affidavit filed by the respondents and the two Annexures enclosed therewith, this Court is compelled to draw an inference that the petitioner was in fact communicated of the adverse entries made in his ACR for the year 1987 as also for the year 1988. If we look into the records what clearly reflects is that in spite of the fact that the petitioner has claimed senior pay scale w.e.f. 01.08.1989 i.e. on completion of 6 years service, there is no objection or a representation made by the petitioner in this regard promptly even if there is some, it has not been pursued vigorously by the petitioner. The representations enclosed with the writ petition would show the same to have been made just before his retirement and most of his representations have been made subsequent to his retirement.
8. What all the more weighs in the mind of this Court is that during the period when according to the petitioner he was entitled for senior pay scale, the services of the petitioner were under the undivided state of Madhya Pradesh. The entire records, at the relevant point of time, were with the state of M.P. From 1989 till the petitioner's services were allocated to the State of Chhattisgarh, there does not seem to have any record available with the State of Chhattisgarh now except for the documents enclosed with the writ petition particularly those filed with the additional affidavit filed on behalf of the Department.
9. So far as the judgment of the Hon'ble Supreme Court in the case of Dev Dutt Vs. Union of India and Others, (2008) 8 SCC 725 and Sukhdev Singh Vs. Union of India and Others, (2013) 9 SCC 566 relied upon by the petitioner is concerned, the same would not be applicable in the

instant case and would be distinguishable on its facts itself for the reason that those two judgments were in respect of uncommunicated ACRs having adverse entries whereas in the instant case the stand of the State Govt. supported with Annexures R-1 & R-2 shows that the adverse entries were communicated to the petitioner at the relevant point of time.

10. Moreover, since the petitioner has not raised any claim promptly when he was denied the same and the representations which he has made also being made after more than a decade from the date the petitioner claims the relief, coupled with the fact that the writ petition being filed after more than 7 years from the date of retirement and about 18 years from the date the petitioner claims for the benefit, forces this Court to assume and infer that the petitioner was in fact communicated of all the adverse entries and that is why the petitioner did not claim for the said benefit at the appropriate time.

11. For all the aforesaid reasons, this Court does not find any strong case made out by the petitioner for the relief that he has sought for and the writ petition therefore deserves to be and is accordingly dismissed.

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