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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2342 of 2018

Dwarika Prasad Sahu S/o Gangaram Sahu, Aged About 68 Years, R/o Lane No. 1, Mamtanagar, Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, through The Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, New Raipur, Chhattisgarh.
2. The Accountant General, Government Of Chhattisgarh, Raipur, Chhattisgarh.
3. The Engineer In Chief, Water Resources Department, Mahanadi Project, Water Resources Department, Raipur, District Raipur, Chhattisgarh.
4. The Superintending Engineer, Indravati Project Division, Jagdalpur, District Bastar Chhattisgarh.
5. The Executive Engineer, Water Resources Department, South Bastar, Dantewada Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Anup Majumdar, Advocate
For State	:	Mr. Sameer Behar, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/02/2019

1. The grievance of the petitioner in the present writ petition is non finalization of the pension which the petitioner is receiving and also the non granting of the retiral dues which the petitioner is entitled for with interest.
2. The facts relevant for adjudication is that the petitioner working as an Assistant Engineer (SDO) retired from service on 30.06.2010. On his retirement the respondents failed to release the retiral dues which the petitioner was entitled for on his retirement. Before his retirement the petitioner on 05.04.2010 was served with a show cause notice intimating him that the petitioner has in the year 2009-10 had exceeded the budgeting amount of 109.78 by drawing the amount of Rs. 136.4.

Thus, he has unauthorizedly incurred excess cost of Rs. 26.66 lakhs and the amount has also since been withdrawn from the bank illegally. It appears that there after there has been no further decision taken by the State Government so far as the petitioner's case is concerned, neither have the department released the retiral dues as he was entitled for.

3. At this juncture the Counsel for the petitioner referred to Annexure P-2 dated 30.12.2018 issued by his immediate superior with his Superintendent Executive Engineer whereby it has been stated by the Executive Engineer there has not been irregularity and the part of the petitioner and that the entire expanses which has been incurred by the petitioner has been duly accounted for and the same has also been certified for being adjusted.

4. The petitioner further referred to the correspondence made by the superintendence engineer and the concerned department in continuation to the correspondence of the Executive Engineer dated 23.01.2016 wherein also the superintendent Engineer has categorically held that the entire expenses incurred by the petitioner has been duly accounted and the excess amount incurred of 26.66 can be adjusted and the transfer entry as per rules was also properly forwarded to the office of the Accountant General in this regard. The letter of the superintendent Engineer dated 22.06.2016 further also reflects that the said excess cost has also subsequently being properly vouchered. As the Sub Divisional levelled and the MIS entry was also made by the Department and as such there is no further irregularity which could be attributed further against the petitioner disentitling him of his retiral dues.

5. The contention of the petitioner further is in respect of the fact that the petitioner as of now retired from service 8 years till the any order with holding whatsoever by the competent authority has not been passed order withdrawing all the retiral dues. In the absence of any such order the dues payable to the petitioner can not be

deprived arbitrarily by the department and the same be ordered to be released to the petitioner with interest.

6. Counsel for the state on the contrary opposing the petition submits that the it is a case where the show cause notice dated 05.04.2010 shows that the petitioner has incurred extra cost on 26.66 beyond his power and competency and the said amount in during the course of time withdrawn from the bank. Thus, causing the lost to the state exchequer. The State Counsel also referred to Annexure R-7 23.4.2015 which also shows because of this irregularity state government has decided to released 90 % family pension payable to the petitioner.

7. The perusal of the records would show that the department now further issued another letter on 26.07.2017. whereby the department has further reduced the pension payable to the petitioner from 90% to 50%. Given the aforesaid entire facts and circumstances of the case this court of the opinion is that the petitioner having retired on 30.06.2010 was entitled for his entire retiral dues . If not any reason, the department did not intent to released the same there had to be formal orders passed by the competent authority in this regard in the instant case there is no such formal order passed. As per the pleadings of the parties.

8. Moreover, the correspondence is made by the immediate superior to the petitioner this executive Engineer as well as the superintendent engineer further show that there is no illegality or for that matter irregularity committed by the petitioner with which he could be entitled with the punishment of withholding of his retiral dues. Further is revealed from the proceeding that the higher authorities in the department themselves has clearly certified with the entire work executive during the tenure of the petitioner has been properly accounted and certified and the necessary approval for the excess cost incurred have also been duly intimated to the concerned department and authority and the office of the accountant general also been intimated in this regard. Given the said facts this Court does not find any

strong reasons available for the state government not to release retiral dues payable to the petitioner.

9. Accordingly, the present writ petition stands allowed and the respondents are directed to forthwith release the entire retiral dues payable to the petitioner. Unless there is already is order for withholding of his retiral dues for in respect of any adjusted that has been made.

10. Let this exercise be completed within the period of 90 days from the date of receipt of copy of this order. Needless to mention that in the light of the observation made in the preceding paragraphs and directives given the petitioner would also be entitles for the full pension again on the condition there is no order passed by the authority is concerned limiting date for 90% or 50% as the case may be.

Sd/-

(P. Sam Koshy)
Judge

vivek