

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2249 of 2019**

Panna Lal Tiwari S/o Late Ramkishor Tiwari Aged About 71 Years (Approx), Ex Nayab Nazir, Bemetara, Residence - Care To Prity Interprizes, Mitan Chowk Ward No. 41, Subhash Nagar, Durg P.O. Kasaridih, P.S. City Kotwali Durg, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioner**Versus**

1. The Registrar High Court Of Chhattisgarh, At Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. District And Session Judge Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. K. R. Loniya, Advocate
For Respondent	:	Mr. Abhishek Sinha, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

29/03/2019

1. Challenge in the present writ petition is to the Annexure (P-2) dated 28/06/2016 whereby the claim of the petitioner for grant of gratuity and pension has been rejected by the office of the District and Sessions Judge, Durg.
2. Perusal of the record would show that the petitioner was terminated on account of certain grievous misconduct that he had committed while discharging the duties of 'Nazir' at District and Sessions Judge, Durg. The petitioner was after a duly conducted the departmental enquiry terminated from service vide order dated 09/06/1981.

3. On a query being put to counsel for the petitioner he fairly concedes that order of termination has never been challenged by the petitioner at any point of time. Further it is reflected that the petitioner was prosecuted in a criminal case in the offence under Section 409 of the IPC and the JMFC initially vide its judgment dated 24/02/1989 in criminal case No. 463/1988 found the appellant to be guilty for the said offence and he was convicted for the same. Order of conviction was subsequently challenged in a criminal appeal No. 18/1989 before the Second additional sessions judge, Durg. Criminal Appeal was allowed and the judgment of conviction was set aside/quashed vide the judgment dated 27/12/1989. From 1989 onwards, the petitioner does not seem to have approached the authorities promptly for further steps to be taken in the light of the acquittal.
4. Given the aforesaid facts and circumstances of the case, this Court at this juncture finds it difficult to entertain the writ petition. If at all, if the petitioner intends to make any mercy appeal that would always lie only within the domain of the Head of the Institution which the petitioner was serving before his termination.
5. This Court in exercise of its powers under Article 226 of the Constitution of India can not covert the writ petition as a Mercy Appeal of the petitioner, reserving the right of the petitioner if he wants to prefer a Mercy Appeal to the Competent Authority the present writ petition stands accordingly disposed off. It is made clear that this Court has not expressed any opinion so far as the merits of the case is concerned.

Sd/-

(P. Sam Koshy)
Judge