

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 272 of 2019**

(Arising out of order dated 27.03.2019 passed by learned Single Judge in Writ Petition (S) No.2114 of 2019)

Dwarika Prasad Choubey S/o Late Kalpdhari Choubey Aged About 68 Years R/o Ward No. Jail Road, Ramanujganj District Balrampur-Ramanujganj Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of School Education Mahanadi Bhawan, Atalnagar, Raipur District Raipur Chhattisgarh.
2. The, Secretary Department Of Tribal Development Indrawati Bhawan Atalnagar, Raipur, District Raipur, Chhattisgarh.
3. The, Joint Director Treasury Account And Pension Bilaspur, District Bilaspur Chhattisgarh.
4. The District Education Officer Ramanujganj District Balrampur, Ramanujganj Chhattisgarh.
5. Block Education Officer Ramanujganj District Balrampur, Ramanujganj Chhattisgarh.

---- Respondents

For Appellant	: Shri A.N. Pandey, Advocate.
For Respondent/State	: Shri R.S. Baghel, Deputy Advocate General.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****P. R. Ramachandra Menon, Chief Justice****02.07.2019**

1. Dismissal of the writ petition preferred by the Appellant herein deprecating the inordinate delay in projecting the cause of action is sought to be challenged by filing the appeal.
2. Heard learned counsel for the Appellant as well as the learned Deputy Advocate General representing the State.

3. The main grievance of the writ Petitioner/Appellant is with regard to the alleged lapse on the part of Respondents-Government in granting the second time bound pay scale to the writ Petitioner/Appellant on completing 24 years of service w.e.f. 19.04.2019, in terms of the circulars dated 03.10.2018 and 06.07.2013 issued by the Government.
4. The learned counsel for the Appellant submits that the Appellant has been non-suited by the learned Single Judge, solely on the ground of delay, which is to be interfered by this Court.
5. Though the grounds raised in appeal are not of any persuasive effect, we thought it fit and proper to ascertain the eligibility of Appellant to have raised the claim with reference to the circulars and as to why the second time bound higher pay was not granted to him on completion of 24 years of service. Pursuant to the said order dated 18.06.2019, the Respondent-State has filed a return on 26.06.2019, explaining the position in crystal-clear terms.
6. The learned counsel for the Respondent-State submits that the version of the writ Petitioner/Appellant that no second time bound higher pay was given to him, is not correct. On completion of 24 years of service w.e.f. 01.08.2003, he was granted the benefit of second time bound higher pay, which was fixed as Rs.5500-175-9000/-. It is stated that the Appellant/writ Petitioner was also provided with the pay scale of 6th pay commission and was placed the scale of Rs.14,470-570-15040 + Grade Pay of Rs.4300/- as disclosed from Annexure R/1, which is a copy of relevant extract of the service book.

7. After hearing both the sides, we are of the view that the claim of the writ Petitioner/Appellant who retired from the service on 30.06.2012, for the benefit of second time bound higher pay on completion of 24 years of service is not factually correct; that too with the prayer to have it given with effect from 19.04.1999. We also find force in the argument on the part of the Respondents that the circulars are not applicable (which were issued on 03.10.2018 and 06.07.2013) to him.
8. That apart, as rightly observed by the learned Single Judge, the writ Petitioner/Appellant chose to approach this Court several years after arising the alleged cause of action. The inordinate delay in this regard is not explained and it is liable to be condoned.
9. The learned counsel for the Appellant submits that the writ Petitioner/Appellant had submitted various representations, but it is a settled law, that mere filing of representations will not stretch the cause of action. We find support from the ruling rendered by the Supreme Court in **S.S. Rathore v. State of Madhya Pradesh, (1989) 4 SCC 582**. It is also be noted that the discretion of this Court vested under Article 226 of the Constitution of India is not to extend the relief to such persons who are simply taking rest on arm chairs, as held by the Supreme Court in **Rabindranath Bose and Others v. The Union of India and Others, 1970(1) SCC 84**.
10. The appeal being devoid of merit, stands dismissed accordingly.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge