

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.4934 OF 2019**

Upendra Prasad Gupta S/o Late Laxman Gupta Aged About 49 Years
Occupation - Retired Assistant Teacher, R/o Rawat Residency, L - 2, M. G.
Road Ambikapur, District Surguja Chhattisgarh.

...Petitioner(s)**Versus**

1. State of Chhattisgarh Through The Secretary, School Education Department, Mahanadi Bhawan Mantralaya, Atal Nagar Raipur, District Raipur Chhattisgarh.
2. District Education Officer, Ambikapur District Surguja Chhattisgarh.
3. Joint Director, Treasurer and Pension, Ambikapur District - Surguja Chhattisgarh.
4. Block Education Officer Ambikapur, District Surguja Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Sanjeev Verma, Advocate.
For Respondent-State	:	Shri Arvind Dubey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08.07.2019**

1. The claim of the petitioner in the present writ petition is for a direction to the respondents for releasing salary for the period 2015 to 2017 and also for directing the respondents for releasing pension with interest which the petitioner is entitled for.
2. According to the petitioner, he was working with the respondents as Assistant Teacher from 1992 onwards. Subsequently on account of health condition he had tendered voluntary retirement from the department which stood accepted by order dated 20.11.2017 treating the petitioner to have voluntary retired from service w.e.f. 31.12.2017 onwards. According to the petitioner though he has voluntary retired w.e.f. 31.12.2017, till date his pension and pensionary benefits have not been finalized and that he has

also not been granted the salary for the period between June, 2015 to October, 2017.

3. Perusal of record would show that admittedly the petitioner was absent from duty between June, 2015 to October, 2017. In October, 2017 he joined services and tendered voluntary retirement which stood accepted vide order dated 20.11.2017 (Annexure P/6) retiring the petitioner voluntarily w.e.f. 31.12.2017. It appears that, for the intervening period from June, 2015 to October, 2017 the petitioner remained absent from duty. There was no sanctioned leave granted to the petitioner for the intervening period. It appears that the petitioner subsequent to his joining service had moved an application for treating the said leave period as Earned Leave and adjusting it in accordance with rules. No formal order as such has been passed on the said request of the petitioner except for a note sheet that is available along with writ petition dated 02.05.2019 from the office of the Block Education Officer treating the said intervening period as not having worked with the department. Once when the petitioner has been granted voluntary retirement, the respondent authorities are also required to take a formal decision how the intervening period between June, 2015 to October, 2017 has to be treated. Since the respondents have granted him the benefit of voluntary retirement, the petitioner cannot be denied his right of pension which he would be entitled for subsequent to his retirement w.e.f. 31.12.2017 onwards.
4. The counsel for the State, on verifying the records, submits that the case of the petitioner is under process and the respondents are likely to take a decision at the earliest.
5. Given the aforesaid factual matrix of the case, this court is of the opinion that no fruitful purpose would be served in keeping this petition pending. Rather, ends of justice would meet if the writ petition is disposed of with a

direction to the respondents No.2 to 4 to consider the claim of the petitioner so far as releasing of pensionary benefits and retiral dues that the petitioner would be entitled for. The respondents shall also consider and pass an appropriate order as to how the period between June, 2015 to October, 2017 i.e. the period during which the petitioner was absent from duty has to be treated. The respondents shall also consider and decide the application moved by the petitioner so far as regularizing the said absence period by adjusting it against the Earned Leave to his credit. Let an appropriate decision be taken at the earliest preferably within a period of 90 days from the date of receipt of copy of this order.

6. It shall be the responsibility of the petitioner to apprise the respondents No. 2 to 4 so far as order passed by this court is concerned.
7. The writ petition accordingly stands disposed of.

Sd/-
(P. Sam Koshy)
Judge