

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 372 of 2017**

1. Managing Director Chhattisgarh State Civil Supplies Corporation Limited, Head Office Avanti Vihar, Hitavad Building, Raipur, Chhattisgarh.
2. Chairman, Chhattisgarh State Civil Supplies Corporation Limited, Head Office, Avanti Vihar, Hitavad Building, Raipur, Chhattisgarh.

---- Appellants**Versus**

1. M. N. Prasad Rao S/o Late M.J. Rao Aged About 63 Years R/o Aprakunj State Bank Colony, Timber Market Fafadih Raipur, District Raipur Chhattisgarh.
2. State Of Chhattisgarh, Through Secretary, Department Of Food, Civil Supplies And Consumer Protection Mantralaya Mahanadi Bhawan New Raipur, District Raipur Chhattisgarh.

---- Respondents

For Appellants	: Shri Kishore Bhaduri, Shri V.R. Tiwari and Ms. Swati Upadhyay, Advocates.
For Respondent No.1	: Smt. Surya Kawalkar Dangi, Advocate.
For Respondent/State	: Shri Siddharth Dubey, Deputy Government Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****08/02/2019****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard counsel for the parties.
2. Corporation filed the appeal since the learned Single Judge allowed the writ application of Respondent No.1 vide his order dated 17.08.2017 holding that since the order of compulsory retirement does not amount to a major penalty like dismissal or removal, therefore, the employee in question cannot be denied the benefit of leave encashment.

3. Before the writ Court, the grievance of the private Respondent was that the Corporation was sitting over his right for claiming leave encashment and they are not releasing the same on the ground as he has earned major penalty like dismissal or removal.

4. Learned Single Judge taking note of the provisions, concluded that leave encashment could not be withheld except the cases specifically provided for in the Rules.

5. In addition to the reasons given by the learned Single Judge, while going through the impugned order of compulsory retirement dated 29.09.2016, we noticed that the order of compulsory retirement has been passed under the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1996, and especially Rule 10(7), though compulsory retirement is shown as one of the punishments under major penalty, but it is an exception to the major penalty.

6. If this be so, then the Appellant-Corporation has no case in appeal, nor can they withhold the earned leave to which the employee is entitled to and which are credited in his accounts while he was in service.

7. It would be advisable for the Corporation to release the earned leave in favour of the employee within a period of eight weeks from today or else, the employee will start earning interest @ 6% per annum from the time it was due till the date of payment.

8. The appeal is otherwise dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE