

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5267 of 2019

Baldau Prasad Suryavansi S/o Late Shri Sarhu Ram Suryavansi Aged
About 65 Years R/o Village Unchbhatthi, Post Selar, Police Station Seepat,
District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Revenue Department,
Mahanandi Bhawan, Atal Nagar, Raipur District Raipur Chhattisgarh,
District : Raipur, Chhattisgarh
2. Collector District Janjgir Champa Chhattisgarh, District : Janjgir-Champa,
Chhattisgarh
3. Chief Executive Officer Zila Panchayat Jangir Champa District Jangir
Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
4. Chief Executive Officer Janpad Panchayat Baloda, District Janjgir Champa
Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Respondents

For Petitioner	: Shri S. P. Kale, Advocate.
For State	: Ms. Sunita Jain, GA

Hon'ble Shri Justice P. Sam Koshy

Order on Board

22.07.2019

1. The petitioner in the present writ petition has claimed for appropriate
direction to the respondents to pay pension, gratuity and other retiral
dues with interest at the rate of 18% per annum. The petitioner has
also claimed for benefit of full salary for the period of suspension
between 02.01.2001 to 30.06.2016 i.e. the date of suspension and
the date of retirement respectively.
2. Facts of the case is that the petitioner was initially appointed as
Lower Division Clerk under the respondents wayback on 12.05.1977.

He was during the course of time promoted to the post of Accountant in the year 1993. Meanwhile, the petitioner while working as an Accountant at Janpad Panchayat, Baloda was placed under suspension vide order dated 02.01.2001. Earlier the petitioner was issued with a charge-sheet on 18.05.1999 on the charge of misappropriation of government funds.

3. The contention of the petitioner is that charge-sheet was thereafter not proceeded further by the department and meanwhile an FIR was registered against the petitioner and he was subjected to criminal prosecution. The petitioner crossed the age of superannuation on 30.06.2016 while being under suspension. Criminal case initiated against the petitioner finally stood decided on 31.03.2018 whereby the petitioner stood acquitted from all the charges that were levelled against him. Though, the petitioner has been acquitted from the criminal case levelled against him till now he has not been paid any retiral benefits including pensionary benefits which the petitioner is entitled for.
4. Given the factual matrix as has been narrated by the petitioner what is undisputed is the fact that petitioner was placed under suspension on 02.01.2001 and while remaining under suspension the petitioner crossed the age of superannuation on 30.06.2016. During the entire period of suspension till the date of retirement the petitioner was facing the criminal trial. Criminal Trial got concluded only vide judgment dated 31.03.2018 which resulted in acquittal of the petitioner.
5. Given the aforesaid facts and circumstances of the case that the

petitioner now stands acquitted for all practical purposes, since the department has not initiated any departmental enquiry against the petitioner for the alleged misappropriation of government funds, the petitioner would have to be treated as retired from service from 30.06.2016 and he would be entitled for all the retiral dues which he was entitled for, had he not been placed under suspension in the year 2001.

6. Given the said facts, this Court is of the opinion that ends of justice would meet if the respondents are directed to ensure that case of the petitioner is processed at the earliest for the release of the retiral dues that he is entitled for.
7. It is made clear that so far as the prayer of the petitioner for granting the entire salary during the period of suspension the said relief cannot be granted to the petitioner as undisputedly he was facing the criminal prosecution and from the date of suspension till the date of retirement the criminal case was pending against the petitioner. Thereby the intervening period has to be treated as under suspension and the petitioner will not be entitled for anything in excess of the subsistence allowance that he has received. However, now that the petitioner has retired from service, the petitioner should be granted all notional benefits that were attached to the post on which he was placed under suspension till the date of retirement and he should be given all actual retiral dues whatever he would be entitled for from the date of retirement.
8. Let this exercise be completed within a period of four months from the date of receipt of copy of this order.

9. With the aforesaid observation the writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Rohit