

HIGH COURT OF CHHATTISGARH, BILASPUR**WRIT PETITION (S) NO.5259 OF 2019**

Shiv Shankar Patkar S/o Shri Jhamlal Patkar Aged About 61 Years R/o Mamta Nagar, Lane No. 5, Panchsheel Colony, Rajnandgaon Police Station and District Rajnandgaon Chhattisgarh.

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

1. State of Chhattisgarh Through Secretary, Home Department, Mahanadi Bhawan, Police Station New Raipur, District Raipur Chhattisgarh.
2. Director General of Police Police Trade Quarters, Atal Nagar, Raipur, District Raipur Chhattisgarh.
3. Superintendent of Police Police Training School, R.K. Nagar, Rajnandgaon, Police Station and District Rajnandgaon Chhattisgarh.

... Respondent(s)

For Petitioner	:	Shri Vaibhav A. Gowardhan, Advocate.
For Respondent-State	:	Shri Chandresh Shrivastava, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****22.07.2019**

1. The grievance of the petitioner in this petition is to the issuance of the order dated 25.02.2019 (Annexure P/1) whereby the respondents have expressed their inability for processing the claim of the petitioner for grant of benefit of arrears of 7th Pay Commission and also the benefits payable to the petitioner under GIS.
2. It appears that there is a recovery proceedings initiated by the respondents against the petitioner on account of alleged excess payment of Naxalite Allowance to the petitioner while he was in service. The said order of recovery is already under challenge in a separate writ petition WPS No.6167 of 2018, wherein there is a stay of the effect and operation of the order of recovery dated 07.09.2018. The petitioner, meanwhile, has crossed the age of superannuation which had led to the issuance of the impugned order Annexure P/1.

3. Prima facie, this court is of the opinion that the respondents are not wrong in issuance of the order Annexure P/1 for the reason that the petitioner has meanwhile crossed the age of superannuation and in case if the entire amount is released to the petitioner then the State would find it difficult for recovering the said excess payment in the event if WPS No.6167 of 2018 is dismissed. At the same time, what also cannot be lost sight of is that, the amount payable to the petitioner under the benefits of arrears of 7th Pay Commission as also the amount payable under GIS has not been quantified or reflected by the respondents. If the quantification of both the heads are done and if the amount is much more than what has to be recovered, there is no reason for the State to retain the entire amount when the recovery against the petitioner is only to the tune of Rs.1,46,970/-.
4. Given the said facts, it is ordered that the respondents shall immediately quantify the amount of arrears payable by way of 7th Pay Commission and also the amount of GIS payable to the petitioner, and in case if the amount exceeds Rs.1,46,970/-, after withholding the said amount of Rs.1,46,970/-, the remaining amount shall be released to the petitioner forthwith without any further delay. The fate of withheld amount of Rs.1,46,970/- shall depend upon the outcome of WPS No.6167 of 2018.
5. Let the exercise of quantification and release of the money, if any, payable to the petitioner be done within a period of three months from the date of receipt of copy of this order.
6. With the aforesaid direction, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge