

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5330 of 2019

Fuljens Tigga S/o Shri Piyush Tigga Aged About 63 Years (Retired A.S. I. Of Police Department), R/o Near Tandan Diary, Vimal Vihar Gali, Shankar Nagar Quarter No. 31/954, New Shanti Nagar Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of Home And Police Affairs, Secretariat, Mahanadi Bhawan, New Raipur, Police Station And Post Rakhi, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Director General Of Police Police Head Quarter New Raipur, Police Station Rakhi, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
3. Joint Director Of Division (Funds Account And Pension) Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. The Director (Treasury, Audit And Accounts) Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
5. The Superintendent Of Police Raipur And District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Badruddin Khan, Advocate.
For State	:	Shri P. Acharya, PL

Hon'ble Shri Justice P. Sam Koshy

Order on Board

23.07.2019

1. The grievance of the petitioner in the present writ petition is for appropriate direction to the respondents to pay retiral dues admissible to the petitioner and also pay the salary for the two month's excess period that he has worked beyond the age of superannuation.
2. Facts of the case is that the petitioner was working as an Assistant

Sub Inspector with the respondents and the date of birth of the petitioner in the service book is 24.09.2006. Accordingly the date of superannuation was 30.09.2018. It appears that respondent had not retired the petitioner from 30.09.2018 onwards and he continued in employment till 11.01.2019 as has been stated by the petitioner.

3. According to the petitioner though he has worked till 11.01.2019 he has been paid only the salary till November, 2018 and has not been paid salary beyond that. It is also the grievance of the petitioner that now that he stands retired w.e.f. 30.09.2018 he has not been released retiral dues that he is entitled for. The petitioner further submits that respondents on the other hand coerced the petitioner to give an undertaking for recovering the salary that was paid to the petitioner beyond 30.09.2018, thus he has filed the present writ petition for appropriate orders.
4. Having heard the contentions put forth on either side and on perusal of records admittedly the date of retirement of the petitioner was 30.09.2018. If the contention of the petitioner is to be believed he has worked under the respondents even beyond the period of retirement i.e. till 11.01.2019. According to the petitioner he has been paid the salary for the month of October and November, 2018 also but thereafter he has not been paid salary for the period that he has worked for and now the retiral dues of the petitioner also has not been released and petitioner is apprehending that the salary paid to the petitioner beyond September, 2018 would be recovered by the respondents.
5. Given the contentions put forth by the petitioner, there can be no doubt that petitioner on his retirement entitled for entire retiral dues. Unless, there is any recovery to be made from the petitioner in

respect of the period while in service before retirement.

6. If the respondents if permitted the petitioner to work for a period beyond his date of superannuation, it is the respondent alone who are responsible for the same. Unless the respondents reaches to the conclusion that petitioner has played fraud by manipulating the records to remain in employment beyond 30.09.2018, if the petitioner is not at fault and respondents permitted the petitioner to continue after 30.09.2018 in service the petitioner would be entitled for the salary for the period that he has worked. No amount of recovery can be made to the petitioner for the said extended period.
7. The undertaking if, at all, if the petitioner has given cannot be acted upon for the reason that it would amount to be an illegal recovery as the petitioner since he has worked for the period would be entitled for the salary for the work that he has discharged. Accordingly, subject to verification of the fact as regards the petitioner having discharged the duties beyond 30.09.2018 the respondents are directed to immediately release the salary if not paid to the petitioner for the peirod that he has worked and also release the entire retiral dues including the pension that he is entitled for. In case, if the respondents reaches to the conclusion that petitioner has not worked beyond the period 30.09.2018, he would not be entitled for any salary.
8. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit