

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 828 of 2018

- Ram Kumar Sahu, S/o Late R F Sahu, Aged About 65 Years, Post Retired Sahayak Pashu Chikitsa Chetra Adhikari, R/o House No. D/25, Vijayapuram Colony, Phase 1, Chatidih (Sipat Road), District : Bilaspur, Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh, Through : The Secretary, Live Stock Development Department, Mantralaya, Mahanadi Bhawan, New Raipur, District – Raipur, Chhattisgarh
2. The Secretary General Administration Department, Mantralaya, Mahanadi Bhawan, New Raipur, District : Raipur, Chhattisgarh
3. Directorate Veterinary Services, Ground Floor, Block No. 3, Indravati Bhavan, New Raipur, District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Yogesh Chandra, Adv.
For State	:	Shri Gagan Tiwari, Dy. G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava

01.02.2019

1. Learned counsel for the appellant would argue that even though the petitioner has a good case on merits, the learned Single Judge has dismissed the petition by exercising his discretionary power on the ground of delay. He would submit that in a case like this the petition could not be dismissed because the claim for calculating fixation of pay is a recurring cause of action. Though petition has been filed after nine years, the matter was required to be decided on merits.
2. Learned Single Judge has taken a view that the petitioner was granted higher pay scale in the year 2008, and though he remained in the employment for a period of 5 years, he did not raise any grievance or objection and after more than five years from his retirement and more than ten years from the date of granting higher pay scale, the petitioner filed this petition.

3. The decisions of Supreme Court in the matter of **State of Madhya Pradesh and ors. Vs. Yogendra Shrivastava**¹ and **Union of India and Ors. Vs. Tarsem Singh**² cited by the learned counsel for the petitioner are distinguishable because in the present case the petitioner filed this petition after a lapse of five years of his retirement.
4. Accordingly, the WA is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge

yasmin

1 (2010) 12 SCC 538

2 (2008) SCC 648