

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1895 of 2020

Firat Ram Kenwat, Son Of Guha Ram Kenwat, Aged About 63 Years,
R/o. Village Purani Basti, Kenwat Para, Akaltara, District Janjgir-Champa
Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Chief Secretary, Public Works Department, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh.
2. Secretary, State Of Chhattisgarh, Public Works Department, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh.
3. Superintending Engineer (Enquiry Officer) Public Works Department, Setu Nirman Mandal, Raipur, District Raipur Chhattisgarh.
4. Executive Engineer, Public Works Department, Division Champa, District Janjgir-Champa Chhattisgarh.
5. Joint Director, Account And Pension, Collectorate Campus, District Bilaspur Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Govind Ram Miri with Mr. Basant Kaiwartya, Advocates
----------------	---	--

For State	:	Ms. Akanksha Jain, Dy. Govt. Advocate
-----------	---	---------------------------------------

Hon'ble Shri Justice Goutam Bhaduri

ORDER

18.09.2020

1. The instant petition is for grant of pension. Admittedly the petitioner was superannuated on 31.05.2019 by Annexure P-1 dated 11.02.2019. According to the State, the date of birth of the petitioner is 01.06.1957 as per Annexure P-1. Subsequently, since the retiral dues were not settled, the instant petition has been filed.
2. Learned counsel for the petitioner would submit that the status of the petitioner has not been denied and the reply would show that the gratuity of Rs.5,80,110/-, payment towards Contributory Provident Scheme (C.P.S.) of Rs.1,96,515/-, Group Insurance Scheme (G.I.S.) of

Rs.14,724/- have been paid in favour of the petitioner; however, in respect of settlement of the pension, the same has not been done. He would submit according to that the pension cannot be withheld except any departmental enquiry is pending or any criminal case is registered. It is stated in case of petitioner no such enquiry or case of the like nature is pending.

3. Learned State counsel refers to the reply and would submit that the petitioner was asked to clarify what is his date of birth as according to the service book, his date of birth is 01.06.1957 whereas in the School Register (Annexure P-4) the entry in the register would show the date of birth as 07.04.1961. Therefore, the objection was raised by the Joint Director, Account & Pension about the correctness of the date of birth.
4. Heard learned counsel appearing for the parties and perused the documents.
5. The relevant part of Rule 8 (1) (b) of C.G. Civil Services (Pension) Rules, 1976 reads as under :

“8. Pension subject to future good conduct.- (1) (b) The pension sanctioning authority may, by order in writing withhold or withdraw a pension or part thereof, whether permanently or for a specified period, if the pensioner is convicted of a serious crime or is found guilty of grave misconduct.”

6. Perusal of Annexure P-1 would show that the petitioner was made to retire on 31.05.2019 on attaining the age of 62 years by taking the date of birth of the petitioner on 01.06.1957. The reply would reveal that the amount of gratuity, contributory insurance provident fund, group insurance scheme have already been released in favour of the petitioner. When the petitioner was made to retire on 31.05.2019 by taking the date of birth as 01.06.1957 which is registered in the service

book, the State cannot dispute the fact that the subsequent date of birth as somewhere appears on 07.04.1961. In the backdrop of the facts, the petitioner's claim would show that the petitioner has not claimed that his date of birth is 07.04.1961 which obviously would have entitled the petitioner to have worked till date i.e. today and as otherwise he would not have superannuated. It is otherwise. Therefore, in the facts of this case since the petitioner has been made to retire according to the entry in the service book, which is in the possession of the State by taking it as 01.06.1957 and considering the reply of the State that they are ready to release the pension, it is obvious that State cannot come out with plea to disown their own act on the principles of estoppel as when the petitioner was made to retire by taking the date of birth as 01.05.1957. The said date of retirement has not questioned by him as otherwise petitioner would have in the job till today. The State should have accepted the date of birth of the petitioner as 01.06.1957.

7. In the circumstances, it is directed that the respondents shall finalize the pension of the petitioner within a period of three weeks and same be released to him by taking his date of birth as 01.06.1957.
8. With the aforesaid observation, the writ petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Aks