

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 515 of 2019***{Arising out of order dated 23.08.2019 passed by the learned Single Judge in
WPS No. 7054 of 2017}*

- R. K. Pandit S/o Late Shri M. L. Pandit Aged About 63 Years R/o Forest Colony, Belgahana, Tahsil Kota, District Bilaspur, Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh Through- The Secretary, Department of Forest, Mahanadi Bhawan, Post Office Mantralaya, P.S. Rakhi, Naya-Raipur, District- Raipur, Chhattisgarh.
2. The Under Secretary Department of Forest, Mahanadi Bhawan, Post Office Mantralaya, P.S. Rakhi, Naya-Raipur, District- Raipur, Chhattisgarh.
3. The Principle Chief Conservator of Forest Aranya Bhawan, Medical College Road Raipur, Chhattisgarh.
4. The Deputy Director Achanakmar Tiger Reserve, Lormi District Mungeli, Chhattisgarh.

---- Respondents

For Appellant : Shri Vipin Tiwari, Advocate.
For Respondent/State : Shri Chandresh Shrivastava, Deputy Advocate General.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board**Per P. R. Ramachandra Menon, Chief Justice****04.03.2020**

1. The correctness and sustainability of the verdict passed by the learned Single Judge upholding the compulsory retirement ordered in the case of Appellant as per the Annexure P/1 order is put to challenge in this appeal.

2. Heard Shri Vipin Tiwari, the learned counsel for the Appellant as well as Shri Chandresh Shrivastava, the learned Deputy Advocate General appearing on behalf of the State.
3. The sequence of events reveals that some proceedings were filed against the Appellant with regard to serious loss caused to the exchequer and there were proceedings before the Lok Aayog as well, in this regard. A finding was rendered by the Lok Aayog, State of Chhattisgarh to the effect that loss was caused at the instance of Appellant. Based on the finding of the Lok Aayog, further proceedings were initiated by the Departmental Authorities for recovery of the loss/amount to the tune of Rs. 29,66,340/-.
4. The learned counsel for the Appellant submits that an appeal/representation has been preferred against the order of recovery passed by the Departmental Authorities and the same is still pending consideration as Annexure A/5. The order of compulsory retirement was put to challenge by filing writ petition. The matter was dealt with elaborately by the learned Single Judge and the learned Single Judge observed in paragraph 3 of the judgment as follows:

“3. Today when the matter is taken up for hearing, counsel for the petitioner makes submission that petitioner in between deposited the entire amount which department had ordered to be recovery that is the entire amount of Rs. 29,66,340/-.”
5. The factum of deposit to the entire amount made by the Petitioner was adverted to in paragraphs 4 and 6 as well. By virtue of the course and conduct pursued by the writ Petitioner/Appellant in depositing the entire amount to the tune of Rs. 29,66,340/-, it was observed that the Writ Petitioner had virtually admitted the guilt as to having caused damage to

the department or being responsible for such damage and in the said circumstances, interference was declined. It was further observed that the Petitioner had already crossed the age of 61 years and by the time he had crossed the age of superannuation, only few months of service were left; by virtue of which, there was no chance to have suffered much monetary loss with regard to the alleged loss of service. The learned Single Judge while declining interference in the writ petition with regard to the challenge raised against Annexure P/1 order of compulsory retirement, however, made it clear in paragraph 7 that the appeal, if any preferred by the Petitioner/Appellant against the order of recovery would be considered on merits and that the Court had not expressed any opinion with regard to the merits of appeal.

6. The learned counsel for the Appellant points out that the observation made by the learned Single Judge that the Appellant had 'deposited' the amount is not correct. As a matter of fact, it was the Departmental Authorities who deducted the said amount from the amounts payable to the Appellant and that it was never a voluntary action of the Appellant/writ Petitioner.
7. We find it difficult to accept the said averment, more so since, no material has been produced before us with regard to the amounts payable and the amounts deducted compulsorily by the Department. That apart, if at all the version submitted by the writ Petitioner before the learned Single Judge was wrongly noted by the learned Single judge, it was for the Appellant/writ Petitioner to have it brought to the notice of the learned Single Judge for getting it corrected by way of appropriate proceedings.

This is the law declared by the Apex Court in ***State of Maharashtra vs. Ramdas Shrinivas Nayak and Another*** reported in **(1982) 2 SCC 463**.

8. Coming to the other relevant aspects, the Appellant has already preferred an appeal/representation with regard to the recovery. But the fact remains that the appeal/representation by way of Annexure P/5 is in respect of the consequential proceedings issued by the Departmental Authority. The said proceeding is based on the finding of Lok Aayog as referred to in paragraph 2 of the judgment. The fact that the matter was pending before the Lok Aayog, a finding was arrived at by the Lok Aayog as to the involvement of the Petitioner and the responsibility in having caused the loss remains unchallenged as conceded by the learned counsel. Since the said finding rendered by the Lok Aayog has not been subjected to challenge, the involvement of the Appellant/Writ Petitioner in causing loss has become final. The subsisting dispute, if at all any, could only be with regard to the 'quantum of loss', which may be the subject matter of consideration before the Appellate Authority by way of Annexure P/5. Since nothing has been expressed by the learned Single Judge with regard to the merit in this regard, which is the subject matter of the said appeal, we find that no interference is warranted in this appeal.
9. Appeal fails. It is dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge