

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 1979 of 2021

Bharat Lal Sahu, S/o Late Shivcharan Lal Sahu, Aged About 62 Years R/o B-47, Shivram Ashirwad Colony, Nahariyababa Mandir Road, Janjgir, District Janjgir - Champa, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Health And Family Welfare Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, District Raipur, Chhattisgarh.
2. Director, Health Services, Indrawati Bhawan, Atal Nagar, District Raipur, Chhattisgarh.
3. Chief Medical Officer, Janjgir, District Janjgir - Champa, Chhattisgarh.
4. Accountant General Raipur, District Raipur, Chhattisgarh
5. Sub - Divisional Director, Accounts And Pension, Bilaspur, Division Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Ashutosh Trivedi, Advocate
For State	:	Mr. Rahul Jha, Govt. Advocate
For Respondent No.4	:	Mr. Rajkumar Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08/06/2021

1. The petitioner in the present writ petition is a retired Head Clerk in the Health Department of the respondents. The petitioner stood retired w.e.f. 31.01.2021.
2. While in service the petitioner was implicated in a case under the Prevention of Corruption Act in the year 2020 and was also arrested. Subsequently, he stood released on bail. On account of his arrest, the petitioner was placed under suspension. Later on, the suspension order stood revoked by the Department and the petitioner was taken back in

service and he continued to serve till he cross the age of superannuation.

3. The grievance of the petitioner in the present writ petition is two folds. The first grievance of the petitioner is that though he was working under the respondents, but he was not given the benefits of revision of pay in accordance with the 7th pay commission. The second grievance of the petitioner is that having retired in January, 2021, till date he has not received any retiral or pensionary benefit and under the service Rules governing the retiral benefits, he was entitled for the retiral dues, if not atleast for the provisional retiral dues.
4. At this juncture, the learned State counsel submits that since the criminal case under the provisions of the Prevention of Corruption Act in respect of the petitioner is still pending consideration before the concerned trial Court, the Department is finding difficult in settling the pensionary benefits payable to the petitioner. The counsel for the office of the Accountant General also adopts the reply submitted by the State Government.
5. Having heard the contentions put forth on either side, what is undisputed is the fact that the petitioner was permitted to retire from the service on 31.01.2021. Since the petitioner was permitted to work from 01.01.2016 onwards, he would had been entitled for the benefit of the revision of pay as per the recommendation of the 7th pay commission. Pendency of the criminal case under the Prevention of Corruption Act would not come in the way for deciding the entitlement of the petitioner, so far as the salary and other benefits under the revised pay-scale as per the 7th pay commission report.

6. In view of the same, the said issue can be decided and it is accordingly directed that the respondents No. 2 to 5 to immediately scrutinize the claim of the petitioner so far as the entitlement for the benefits under the 7th pay commission. As regards the releasing of pensionary benefits is concerned, there again there is no dispute that the petitioner under the Rule would still be entitled for provisional pension and the provisional gratuity etc., therefore also the respondents No.2 to 5 are directed to immediately scrutinize the claim of the petitioner, so far as his entitlement for the release of the provisional pension and gratuity etc. in accordance with the Rules governing the field at the earliest preferably within a period of 4 months from the date of receipt of the copy of this order.
7. It is made clear that the final settlement of pension, gratuity and other retiral benefits shall be subject to the outcome of the criminal case under the Prevention of Corruption Act pending against the petitioner.
8. With the aforesaid observations, the present writ petition stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved