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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) NO. 2287 OF 2021

- Abhay Kumar Tripathi, S/o Shri J.N. Tripathi, aged about 64 years, Retired as Patwari from Tahsil Office- Pusaur, Raigarh, R/o - Kalindi Kunj, Raigarh, Tahsil and District Raigarh, Civil & Revenue District Raigarh (CG)

... Petitioner

versus

1. State of Chhattisgarh, through Secretary, Revenue Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, New Raipur (CG)
2. The Director, Land Record, Indrawati Bhawan, Mantralaya, Atal Nagar, New Raipur (CG)
3. The Collector (Land Record), Raigarh, District Raigarh (CG)
4. The Tehsildar Pusaur, Raigarh, District Raigarh (CG)
5. The District Treasury Officer, Raigarh, District Raigarh (CG)

... Respondents

For Petitioner	:	Mr. Manoj Kumar Sinha, Advocate
For Respondents	:	Ms. Sunita Jain, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

25/08/2021

1. The only grievance that Petitioner has in the present Writ Petition is the non-settlement of his post retiral benefits and so even pensionary benefits have not been released to him till date.

2. Petitioner was posted as a Patwari in District Raigarh and has retired from services with effect from 30.6.2019. It is more than 2 years that the Petitioner has been waiting for his retiral dues to be paid to him, but till date he has not received a single penny by way of post retiral benefits.

3. Learned Counsel for Petitioner submits that the Petitioner does not suffer from any disqualification by which his post retiral benefits could have been withheld. According to him, there is no departmental enquiry or any criminal case pending against the Petitioner, yet for no reasons his retiral dues have till date not been released.

4. One should not forget the hardship of an employee, particularly if he is a low paid employee, and even after his retirement he is not provided with his retiral benefits, particularly the pensionary benefits with which he is to sustain himself and his family. If the submission of Petitioner is to be believed, there was no any departmental enquiry pending at the time of his retirement nor any criminal case against him pending. Therefore, the Petitioner could not be attributed for non-releasing or non-settlement of his retiral dues.

5. The Hon'ble Supreme Court as also practically every High Court in the Country has time and again held that pension, gratuity and other retiral benefits are not to be treated as a bounty or a charity being provided by the employer, but in fact the employee has a right to receive the same for having given his prolonged services to the employer.

6. Moreover, one should not forget the fact that an employee who is attaining the age of superannuation starts planning for his post retiral settlement even before he crosses the age of superannuation. That most of his plans are based on the retiral benefits that he would ultimately get. In addition, there could also be many other family responsibilities and liabilities which an employee has to discharge even after his retirement and which also entirely depends upon the retiral benefits and the pensionary benefits that he is going to get so that he could make appropriate investment at the right time.

7. From the time the Petitioner has retired, till now the rate of interest being provided by the Banks also has gone down substantially and any investment now made by Petitioner would be facing lesser interest than what he would otherwise have got had he invested at the time of his retirement. This also would cause a considerable loss to Petitioner.

Normally, it is expected that the employer would settle the retiral dues of an employee if possible on the date of retirement itself, if not, at-least within thirty days from the date of his retirement subject to the employee completing all the formalities otherwise required for the same. In the instant case, there does not seem to be any such shortcomings on the part of Petitioner which could have resulted in the withholding of the entire retiral dues payable to him.

8. The Hon'ble Supreme Court right from the time of the judgment passed in the case of *D.D. Tewari (Dead) through LRs Vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Anr.*, [2014 (8) SCC 894] in 2014 and thereafter by a catena of decisions where it has been reiterated repeatedly that retiral dues have to be and shall be released to the employee on his superannuation promptly. In spite of this, if the employer has without any justifiable reasons whatsoever held back the retiral dues of an employee, then the employee is entitled to receive due compensation for the suffering and loss that he has otherwise incurred and suffered during all these period post retirement.

9. Be that as it may, considering the entire facts and circumstances of the case, the present Writ Petition at this juncture is disposed of directing the Respondents to ensure that the entire admissible retiral dues payable to Petitioner on his superannuation with effect from 30.6.2019 is settled by making all necessary payments within an outer limit of 45 days from the date of receipt of copy of this Order, failing which the entire amount payable to Petitioner shall carry interest at the rate of 10% per annum from the date of retirement of Petitioner till the actual payment is made to him.

10. It is further directed that whatever interest amount that the Petitioner would be paid, the Respondents should ensure to recover the same from the erring officers who have not timely processed the retiral dues of Petitioner for prompt payment.

11. Writ Petition is allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge

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