

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 3539 of 2021

1. Dr. Arun Kumar Singh Ratre S/o Late Shri N. S. Ratre Aged About 67 Years R/o Quarter No. G/327, Galaxy IInd, Raipur, Police Station Vidhan Sabha Tehsil and District Raipur Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through Secretary, Health and Family Welfare Department, Mahanadi Bhawan, Mantralaya, Police Station and Post Rakhi, Atal Nagar Nawa Raipur District Raipur Chhattisgarh.
2. Director, Office of Director, Department of Health and Family Welfare, Indravati Bhawan, New Raipur Police Station and Post Rakhi, Atal Nagar Raipur District Raipur Chhattisgarh.

---Respondents

For Petitioner	:	Shri Abhishek Pandey and Ms. Deepika Sannat, Advocates.
For Respondent State	:	Shri Suyash Dhar, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

13.07.2021

1. Aggrieved by the action on the part of the respondents in not releasing the full pension, gratuity and leave encashment, the present writ petition has been filed.
2. The petitioner in the instant case was working as Medicine Specialist and was incharge Chief Medical and Health Officer in District Gariyaband. The petitioner was subjected to a departmental enquiry in the year, 2018 and a charge sheet was issued on 30.07.2018. Meanwhile the service of the petitioner was also placed under suspension. The departmental enquiry initiated against the petitioner is still pending final adjudication. Meanwhile, the petitioner having crossed the age of superannuation stood retired from service w.e.f. 30.06.2019. After retirement of the petitioner, the respondents released 90 percent of provisional pension and 10 percent has been held back pending a decision in the departmental enquiry.

Meanwhile, the gratuity and leave encashment amount has also not been paid at all to the petitioner.

- 3.** Now that the petitioner having stood retired for more than two years, he has filed the present writ petition in the light of provisions of Chhattisgarh Civil Services Pension Rules, 1976 (in short, the Pension Rules, 1976) wherein under Rule 9(4) there is a provision for grant of full pension in the event if the pending departmental enquiry on the date of retirement continues for a period beyond two year. The petitioner has relied upon a recent decision of this court in WPS No.2495 of 2021, decided on 17.06.2021 in this regard.
- 4.** The factual matrix as narrated by the petitioner in his pleadings is not disputed by the State counsel, however referring to allegations levelled against the petitioner he submits that the nature of allegations are very serious and that it also amounts to the State exchequer being put to a great loss. Thus, the retiral dues payable to the petitioner has been withheld subject to outcome of the departmental enquiry.
- 5.** Given the aforesaid factual matrix of the case, as regards Rule 9(4) of the Pension Rules, 1976, it clearly provides that departmental enquiries not completed within a period of two years from the date of institution, the entire amount of pension so withheld shall stand restored on the expiration of the aforesaid period of two years. The petitioner herein stood retired from service w.e.f. 30.06.2019. Admittedly the petitioner has been paid pension after withholding 10 percent. Now that two years period has been over, proviso (b) of Sub rule 4 of Rule 9 of the Pension Rules, 1976 automatically comes into play. Since the departmental enquiry still stands un-concluded, in terms of the aforesaid provision, the petitioner would be entitled for full pension and the respondents are therefore directed to forthwith to ensure releasing of full pension to the petitioner.

6. The view of this court stands fortified from the recent decision in the subject matter by this very court in case of S.S. Som Vs. State of Chhattisgarh & Others, WPS No.2495 of 2021, decided on 17.06.2021. Similar view had earlier also taken by this High Court in WPS No.2797 of 2019, Krishna Kumar Tiwari Vs. State of Chhattisgarh & Others.
7. Given the said facts, the writ petition to that extent stands allowed. The respondents are directed to ensure releasing of full pension to the petitioner under the aforementioned provisions of the Pension Rules, 1976. As regards grant of gratuity and leave encashment, the liberty is granted to the petitioner to approach the respondents making for a prayer for releasing of the provisional gratuity which again is enshrined under the provisions of the Pension Rules.
8. Upon the petitioner making a suitable representation to the respondents, they are expected to take a decision in this regard at the earliest preferably within a period of 90 days from the date of receipt of representation.
9. The writ petition accordingly stands partly allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge