

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4218 of 2021**

Bali Ram Chaurasia S/o Shri Chaitu Ram Aged About 65 Years Retired Head Master, Government Girls Middle School, Surangpani, R/o Lailunga, Tahsil- Lailunga, District- Raigarh, Civil And Revenue District- Raigarh, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Secretary, Tribal Welfare Development Department, Mahanadi Bhawan, Atal Nagar, Mantralaya, District- Raipur, Chhattisgarh.
2. The Director School Education Department, Indrawati Bhavan, Atal Nagar, Raipur, District- Raipur, Chhattisgarh
3. The Commissioner Sarguja Division, Ambikapur, District- Sarguja, Chhattisgarh.
4. The District Education Officer Jashpur, District- Jashpur, Chhattisgarh.
5. The Block Education Officer Pathalgaon, District- Jashpur, Chhattisgarh.

----**Respondents**

For Petitioner	:	Mr. Manoj Kumar Sinha, Advocate
For State	:	Ms. Akanksha Jain, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

12/08/2021

1. The claim of the petitioner through the present writ petition is for issuance of an appropriate direction for the release of full pension, which the petitioner is entitled for.
2. The facts of the case is that the petitioner was working on the post of Headmaster of the Govt. Girls Middle School, when he retired from service on 30.06.2018. According to the petitioner, subsequent to his retirement till date he is only receiving 90% of pension. 10% of the

pension has been held back on the alleged ground of some departmental enquiry initiated against the petitioner.

3. It is the specific contention of the petitioner that he has not been issued with any charge-sheet till date, nor is there any departmental enquiry as such for any misconduct under the service Rules initiated or contemplated against him. According to the petitioner, there was only a letter of the District Education Officer calling upon the petitioner to remain present before the District Education Officer in respect of some allegation, which was being inquired into by the District Education Officer. However, though the petitioner has responded back to the District Education Officer immediately seeking providing of the charge-sheet or the memo of allegations charged against the petitioner, there has been no further development or progress. However, till date though more than 3 years have lapsed that the petitioner has retired, he is still getting 90% of pension and in terms of Sub-Rule 4 of Rule 9 of the Chhattisgarh Civil Services Pension Rules, 1976, he would be entitled for the full pension and for which the present writ petition has been filed for an appropriate direction.
4. Learned counsel for the State submits that except for the averment made by the petitioner in the writ petition, it still needs to be verified whether a proper charge-sheet has been issued and served upon the petitioner or not, whether any disciplinary proceedings have been initiated by the Disciplinary Authority or not, and whether any disciplinary action, if initiated, has been concluded or not.
5. Be that as it may, admittedly the petitioner has been permitted to retire as on 30.06.2018. The petitioner has been paid the retiral dues except

the full pensionary benefits. Even if for argument sake, if it is assumed that the petitioner has been issued with a charge-sheet, but in case the departmental enquiry if at all initiated, has not been concluded within a period of two years, the petitioner becomes automatically entitled for full pension immediately from the completion of the two years period from the date of retirement. The petitioner stood retired on 30.06.2018 two years period would get completed on 30.06.2020.

6. Given the aforesaid factual matrix of the case and the rule provision as it stands i.e. Clause- (b) of the 3rd proviso to Sub-Rule 2 of Rule 9 of the aforementioned Rules of 1976 clearly envisages restoration of full pension, if the departmental enquiry is not concluded within a period of two years. This Court recently in the case of “**S.S. Som v. State of Chhattisgarh & others**” WPS No. 2495/2021 has taken a similar stand which were in turn based upon an earlier decision of this Court in the case of “**Krishna Kumar Tiwari v. State of Chhattisgarh & others**” WPS No. 2797/2019.
7. Given the aforesaid Rule position and also the legal position as has been laid down by the aforesaid two judgments, the present writ petition also therefore subject to verification of the facts and entitlement part stands allowed and disposed of directing the respondents to ensure necessary steps to be taken so that the petitioner in case if the departmental enquiry has not been concluded or still pending be released of his full pension from the date immediately on completion of the two years period from the date of retirement onwards.

8. Counsel for the petitioner submits that the petitioner of late also is not being paid his pension regularly and the same is being released with a considerable gap in between, which is putting the petitioner to serious inconveniences for sustenance. Given the said submission, the State Authorities are directed to ensure that the pension payable to the petitioner should be released regularly, uninterruptedly and should not be held back without any justifiable cause.
9. With the aforesaid observations, the present writ petition stands allowed and disposed of. The respondents are expected to take a decision at the earliest preferably within a period of 90 days from the date of receipt of the copy of this order.

Sd/-
(P. Sam Koshy)
Judge