

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 4156 of 2021**

Smt. Rekha Saxena Wd/o Late Shri N. R. Saxena Aged About 65 Years R/o Hd-168, Phase-3, Behind Gramin Bank, Kabir Nagar, Tatibandh, Raipur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Transport Department, Indrawati Bhawan, Mantralaya, Naya Raipur District Raipur Chhattisgarh
2. Additional Regional Transport Officer Rajnandgaon District Rajnandgaon Chhattisgarh
3. Accountant General Raipur District Raipur Chhattisgarh
4. Transport Commissioner Raipur District Raipur Chhattisgarh
5. Divisional Joint Director Treasury Accounts And Pension Durg District Durg Chhattisgarh
6. Treasury Office Rajnandgaon District Rajnandgaon Chhattisgarh
7. State Of Madhya Pradesh Through Transport Commissioner Gwalior Madhya Pradesh

----Respondents

For Petitioner	:	Mr. Vedant Bhelonde, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.
For Respondent No.3	:	Mr. Rajkumar Gupta, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/08/2021**

1. The present writ petition has been filed against the alleged delay and inaction on the part of the respondents in finalizing the pension papers of the petitioner upon the death of her husband and also for payment of the balance of retiral dues, which she is otherwise legally entitled for.

2. The brief facts relevant for the disposal of the present writ petition is that the husband of the petitioner late N.R. Saxena was originally an employee under the transport Department under the erstwhile State of Madhya Pradesh. The petitioner's husband was working as an Assistant Grade-III and was posted in the office of the Additional Regional Transport Officer, Rajnandgaon upon being allocated to the State of Chhattisgarh in November, 2000.
3. It is said that when the husband of the petitioner was posted at the office of the Regional Transport Officer, Bhopal he was arrested in a criminal case in 1995 for the offences punishable under Sections 379, 420, 467 and 468 of the Indian Penal Code. The services of the petitioner was also placed under suspension. The order of suspension subsequently was revoked on 03.05.2000 and the petitioner thereafter upon the creation of the State of Chhattisgarh was allocated to the State of Chhattisgarh in November, 2000. Since then he was posted in the office of the Additional Regional Transport Officer, Rajnandgaon as an Assistant Grade-III. The husband of the petitioner crossed the age of superannuation w.e.f. 31.10.2008 and in due course of time the husband of the petitioner also died on 05.04.2018.
4. Subsequent to the retirement of the husband of the petitioner, the Department was paying provisional pension to the husband of the petitioner. The petitioner's husband was also paid part of the gratuity amount payable, pending the criminal case that was instituted against him and which was pending adjudication before the Court of the Judicial Magistrate First Class, Hoshangabad (Madhya Pradesh).

After the death of the husband, the petitioner since then has been approaching the respondent authorities for the release of the full family pension and also for the release of the other retiral dues payable to her husband at the time of his retirement.

5. The respondent authorities in the State of Chhattisgarh however could not finalize the same on account of the non-finalization of the criminal case which was instituted against the husband of the petitioner. Counsel for the petitioner makes a submission that once the husband of the petitioner has died, the entire proceedings stands abated without any final outcome and therefore she would be entitled for the entire consequential benefits of retirement and also for full family pension after the death of the deceased.
6. Having gone through the pleadings and documents enclosed along with the writ petition, what is reflected is that, the husband of the petitioner was one of the co-accused in the Criminal Case No. 493/2002 (Renumbered, the original number was of 1996). The husband of the petitioner was initially arrested and subsequently was released on bail and he was facing the trial as long as he was in the State of Madhya Pradesh.
7. However, from the judgment passed by the Judicial Magistrate First Class, Hoshangabad in the judgment dated 01.12.2015, it is reflected that the husband of the petitioner has been shown to be an absconder and therefore no decision as such has been passed so far as the husband of the petitioner is concerned. The husband of the petitioner was alive when the judgment of the Judicial Magistrate First Class,

Hoshangabad was passed. There does not seem to be any steps or efforts made by the husband of the petitioner during his lifetime in respect of the order of the Judicial Magistrate First Class, Hoshangabad, wherein he has been shown to be an absconder. Thus the criminal case in so far as the husband of the petitioner is concerned is not yet concluded.

8. Given the said facts, as long as the husband of the petitioner was alive he stood as an accused, and was shown as an absconder and who had absconded during the course of the trial after his being released on bail at the first instance. Subsequent to the death of the husband of the petitioner no steps or efforts seems to have been made for taking the criminal case which was instituted against the husband of the petitioner to a logical conclusion. Under the circumstances as on date also as per the records, the husband of the petitioner stands as an accused and as an absconder from a Court of Law. Unless steps are taken by the petitioner in this regard ensuring a logical conclusion to the criminal case instituted against the husband, the State of Chhattisgarh or for that matter the employer of the petitioner's husband would find it difficult to process the finalization of the retiral dues as also for the pensionary benefits.
9. Under the circumstances, it would not be proper for this Court at this juncture to issue any direction to the authorities. The rights of the petitioner stands reserved for taking necessary steps at the first instance in getting the records of the criminal case, in which the husband of the petitioner was an accused finalized and thereafter to

approach the respondents on the basis of the said findings or order that would be passed by the concerned Criminal Court in respect of the husband of the petitioner for finalization of the retiral dues as also for pensionary benefits.

10. With the aforesaid liberty and the rights of the petitioner being reserved to approach the authorities afresh at a later stage, the writ petition as of now stands disposed of.

Sd/-
(P. Sam Koshy)
Judge

Ved