

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4758 of 2021

1. Arun Thakur, S/o Late Shri C.S. Thakur, Aged About 63 Years R/o Satyam Vihar Colony, Ward No.68, Raipura, Police Station - D.D. Nagar, Tahsil And District Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Its Secretary, Department Of Home/police, Mahanadi Bhawan, Mantralaya, Police Station And Post - Rakhi, Atal Nagar, New Raipur, District - Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Director General Of Police (DGP), Police Headquarters (PHQ), Near Mahanadi Bhawan, Mantralaya, Police Station And Post - Rakhi, Atal Nagar, New Raipur, District - Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. Inspector General Of Police (IGP), Office Of Inspector General Of Police, Lalbag, Jagdalpur, District Bastar Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh
4. Superintendent Of Police (S P), Office Of Superintendent Of Police (S P), Jagdalpur, District Bastar (C G), District : Bastar(Jagdalpur), Chhattisgarh
5. Commandant, 4th Battalion, Chhattisgarh Armed Force (C.A.F.), Mana, Raipur, District - Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---Respondents

For Petitioner	:	Shri Abhishek Pandey, along with Ms. Deepika Sannat, Advocates.
For State	:	Ms. Sunita Jain, G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

08.09.2021

1. The grievance of the petitioner seems to be the action on the part of the respondents in not counting the period from the date of termination till the date of reinstatement as a period spent on duty for the purpose of settlement of the retiral dues.
2. The facts in brief are that the petitioner was working under the respondents as a ASI(M) and posted at Jagdalpur. However, in the course of his employment vide order dated 19.11.1995, the services

of the petitioner stood terminated. The petitioner preferred an appeal against the said order which stood rejected on 24.01.1996 thereafter the petitioner preferred a writ petition before this Court vide WP(S) No. 1283 of 2005 and the said writ petition finally stood decided on 01.04.2014, whereby the writ petition was disposed of directing the Appellate Authority in reconsidering the departmental appeal of the petitioner and to decide the same by a speaking order taking into consideration the contents of the appeal that the petitioner has preferred.

3. Pursuant to the order passed by the High Court, the Inspector General of Police -the Appellate Authority has after due consideration of the appeal, allowed the same vide order dated 05.09.2014. In the said order, the Appellate Authority has set aside the order of termination and ordered for reinstatement in service. The petitioner was immediately taken back in service and he continued to work under the respondents till he crossed the age of superannuation w.e.f 31.07.2019. It is thereafter that the grievance of the petitioner has arisen. The respondents in the course of settlement of his post retiral dues have not taken into consideration the intervening period i.e. the period from the date of termination till the date of reinstatement, thereby the petitioner has been put to substantial loss so far as his retiral dues and pensionary benefits are concerned.
4. According to the counsel for the petitioner, the moment the order of termination has been set aside, it means that the order of termination stands no longer in existence. The petitioner has to be taken back in

service and the order would relate back to the date of termination. For all practical purposes it has to be presumed and treated as if the order of termination did not exist.

5. In the instant case, the non-granting of consequential benefits for the intervening period has not been questioned by the petitioner upon his being reinstated. He accepted the verdicts of the respondents so far as reinstatement part is concerned and he was permitted to resume his duty and continue to serve the department till the age of retirement 31.07.2019.
6. In view of the same, for all the practical purposes, once the order of termination is set aside/quashed, it has to be for all practical purposes treated as if the petitioner continued in service for the intervening period, even though the petitioner may not have been awarded any consequential benefits or any monetary benefits for the intervening period but the said period has to be treated as period spent on duty and for counting the service for the purpose of determining the retiral dues and the pensionary benefits that the petitioner would be entitled for.
7. In the instant case, such benefits have not been extended to the petitioner, which has led to the filing of the present writ petition. The claim of the petitioner ought to have been finalized taking into consideration the provision of FR 54.
8. Given the said facts and circumstances of the case, the writ petition at this juncture stands allowed and disposed of directing the respondents to consider the claim of the petitioner for grant of entire

retiral dues payable to him treating the intervening period i.e. the date of termination 19.11.1995 till the date of reinstatement also to be treated as period spent on duty.

9. The petitioner for the said intervening period has to be given notional fixation and the actual benefits shall be given to the petitioner for the post retirement benefits only.
10. Let this exercise be concluded and settlement be done within a period of four months from the date of receipt of copy of this order.

Sd/-
(P. Sam Koshy)
Judge