

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CONTEMPT CASE (C) NO. 808 OF 2021**

- Arun Kumar Sharma, S/o Late Shri B.M. Sharma, aged about 63 years, Retired Assistant Grade III, Divisional Forest Office, Durg 491001. R/o Plot No.128, Arya Nagar, Durg, Tahsil & District Durg (C.G.)

... Petitioner**versus**

1. Shri Sushil Kumar Gajbhiye, Divisional Joint Director (Treasury Account & Pension), behind District Collector Office, Durg (C.G.)
2. Shri Devendra Choubey, Deputy Director, Durg, in the office of the Joint Director, Divisional Joint Director, Treasury, Account & Pension, behind District Collector Office.
3. Shri Dhammsheel Ganveer, Divisional Forest Officer, Durg, Division Durg 491001, Tahsil & District Durg (C.G.)

... Respondents

For Petitioner

:

Mr. V.G. Tamaskar, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****[22/11/2021]****Per, P. Sam Koshy, J.**

1. The present Contempt Petition has been filed by Petitioner alleging contempt of various Orders passed by this Court so far as the non-granting of pension to Petitioner is concerned.
2. Petitioner herein was engaged by the Forest Department as a daily wage employee. He was discharging the duties of an Assistant Grade-III on daily wage basis. He along with certain Trade Union had approached the State Administrative Tribunal (when it was in existence) seeking for relief of regularization. Those Petitions were subsequently, on abolition of the State Administrative Tribunal, transferred to the State of the Chhattisgarh and all the Petitions came up for hearing before the Division Bench of this Court. The Division Bench vide Order dated 19.4.2006 disposed of the Writ Petitions directing the Respondents to consider the claim of the members of the Association as also the individual persons for regularization.

3. The documents enclosed along with the Petitions show that the Petitioner in the instant case was subsequently regularized in service vide Order dated 13.10.2008 on the post of Assistant Grade-III and there was also an Order passed by the State Authorities on 12.11.2018 holding that the Petitioner would be entitled for the pension under the Chhattisgarh Civil Services (Pension) Rules, 1976. Proceedings also show that there was a Writ Appeal also filed by the Petitioner, i.e., W.A. No.243/2016 which again was disposed of by the Division Bench on 8.10.2018 by the following observations:

“1. Heard Counsel for the parties.

2. A categorical statement has been made in paragraph-10 of the affidavit of the State i.e. submissions made on behalf of respondent/State of Chhattisgarh, in view of order dated 06/12/2017 passed by Hon'ble Court, the same reads as under :-

“10. That, since the appellants Arun Kumar Sharma and Sanat Kumar Sharma have rendered more than 10 years of services without any break, therefore, in adherence to the decision rendered by the Hon'ble Court in W.A. No.209/2015 and in consonance with the order dated 09/05/2017 (Annexure F), the said two employees are found entitled for receiving pension with effect from the date of their superannuation, in the aforesaid circumstances.”

3. In support of the said statement, an official order passed by the respondent has been annexed as Annexure – F and is dated 09/05/2017.

4. In view of the same, this appeal stands disposed off. The appellants have been granted the benefit of pension, for which they have been fighting. Let the benefit of the decision as per Annexure – F accrue to the respondents.”

4. Down the line, the Petitioner having crossed the age of superannuation, finally now stands retired with effect from 31.5.2021. Against the non-settlement of the pensionary claim of Petitioner, he has now filed the present Contempt Petition.

5. Prima facie, this Bench is of the view that the present Contempt Petition would not be maintainable, for the reason that when all the earlier litigations preferred by the Association to which the Petitioner belongs and also the Writ Appeal i.e. W.A. No.243/2016 which the Petitioner had preferred were relating to regularization which the Department subsequently did comply with. Further, when those Petitions were disposed of, the Petitioner was in service. The dispute of non-granting of pension today has arisen only after his retirement subsequently on 31.5.2021. This as such cannot be an issue which could be decided by exercising the Contempt jurisdiction of this Bench. The non-settlement of the pensionary benefits to Petitioner is an independent and subsequent cause of action and which would have to be agitated by way of a fresh proceeding of the nature of a Writ Petition. The same cannot be claimed by filing of Contempt Petition pursuant to the Order passed by the Division Bench in W.A. No.243/2016 decided on 8.10.2018.

6. Moreover, in the said Order dated 8.10.2018 also there was no specific mandamus, particularly in respect of the period within which the benefit of pension was to be settled in respect of the Petitioner. Apart from this, the Petitioner at that point of time since was in service and continued to remain in service till 31.5.2021, the issue of pension and grant of pensionary benefits during the said period would not have been decided nor could have been processed by the Respondents.

7. In view of above, reserving the right of the Petitioner to prefer an independent Writ Petition in respect of his grievance so far as the non-granting of pensionary benefits are concerned, the present Contempt

Petition in its present form being not maintainable and hence the same deserves to be and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
JUDGE

Sd/-
(Parth Prateem Sahu)
JUDGE

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