

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 5305 of 2020

1. Smt. Karuna Bai Rathore W/o Late Shree Tarachand Rathore Aged About 64 Years Retd. Assistant Grade-II, R/o Village Thusekela, Post Telikot, Tahsil Kharsiya, District Raigarh Chhattisgarh.

---Petitioner(s)

Versus

1. State of Chhattisgarh Through The Secretary, Department Of Agriculture, Mantralaya, Mahanadi Bhawan, Post Office And Police Station Naya Raipur, Atal Nagar District Raipur Chhattisgarh
2. Director Directorate Of Agriculture, Indrawati Bhawan, Post Office And Police Station Naya Raipur, Atal Nagar District Raipur Chhattisgarh
3. Joint Director Agriculture, Nehru Chowk, Bilaspur Tahsil And District Bilaspur Chhattisgarh
4. Deputy Director Agriculture, Behind Collectorate, Raigarh, Tahsil And District Raigarh Chhattisgarh
5. Sub Divisional Agriculture Officer Sub Division Dharamjaigarh, District Raigarh Chhattisgarh
6. Accounts Officer Office Of The Accountant General Chhattisgarh Raipur Chhattisgarh
7. L. N. Ram Assistant Land Conservation Officer Agriculture Department, Jashpur District Jashpur Chhattisgarh

---Respondents

For Petitioner	:	Shri Dhani Ram Patel, Advocate.
For State	:	Shri Avinash Singh, Panel Lawyer.
For Respondent No.6	:	Shri Ashwani Shukla, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19.01.2021

1. The grievance of the petitioner in the present writ petition is in respect of non settlement of GPF dues payable to the petitioner to the tune of Rs.95,500/-.
2. The facts of the case is that, the Husband of the petitioner was working under the respondents. He stood retired on 31.09.2017. In the year, 2009 it was detected that the employee had been defrauded of his GPF amount to the tune of Rs.95,500/- which was reflected as withdrawal made from his GPF account. However, on verification, it was found the said employee had never made any such withdrawal of GPF. It was also found that the

said amount was withdrawn by the respondent No.7 and by another person namely C.R. Yadav. The department thereafter lodged an FIR against those two persons for the offence punishable under Sections 409,420,467,468,471 and 34 IPC at Dharamjaigarh Police Station under District Raigarh.

3. The criminal case initiated against those persons are still going on, however, the petitioner till date has not received GPF amount of Rs.95,500/- though the employee died in between, which had led to the filing of the present writ petition .
4. The counsel for the petitioner referred to judgment passed by this court in WPS No.3568 of 2015, decided on 20.02.2020 on identical set of facts where after dealing with the matter, the High Court in paragraph 4 held as under:

“4. Perusal of the document Annexure P-3 shows that the communication was made on 24.12.2009 and prima facie it was found by the inspecting team that from the Account of S.D.O. Agriculture Dharamjaigarh, GPF amount was withdrawn by forgery and it was found that the amount has been illegally withdrawn by some person and FIR was directed to be lodged. The document shows thereafter the enquiry was conducted and it was found that from the account of different persons GPF amount was withdrawn by forgery. The said documents are of 2009. As per the enquiry report, which is placed on record, which prima facie shows it was found that the petitioner has not withdrawn the amount of Rs.1,67,000/- from the account of GPF. Consequently, if the amount has not withdrawn by the petitioner and prima facie the same has been established, the State cannot deny if the person concerned seeks withdrawal by way of part final. Furthermore, if after the enquiry as has been stated in the reply, the recovery would be made and the amount would be made good also cannot be accepted as with the lapse of time, if the enquiry remains for indefinite period or eventually at the end the recovery could not be

made, the petitioner cannot be made to suffer on the ground that the recovery should not be made. The State is the trustee of the GPF, holding it on behalf of the beneficiary. Therefore, if someone by fraud has taken out the amount then in such case the beneficiary cannot be made to suffer for no fault of him. The record shows that considerable period has already been lapsed till the preliminary enquiry conducted and prima facie finding has been arrived at. The petitioner therefore cannot be kept waiting by saying that the amount which was deposited has forgery been withdrawn. Under the facts and circumstances of this case, the State is directed to make good the amount of Rs.1,67,000/- to the GPF account of the petitioner within a period of 60 days from the date of receipt of this order. The petitioner thereafter shall be entitled to withdraw the amount as per the rules and norms which governs for withdrawal.”

5. The State counsel on the other hand submits that it is a case where criminal prosecution against the erring officers is underway and appropriate recovery proceedings would be initiated against them and thereafter the petitioner would be paid whatever dues payable.
6. Having heard the contentions put forth on either side and on perusal of records, admittedly this court on an earlier occasion in WPS No.3568 of 2015 has an occasion to deal with an identical set of facts and where there is a specific observation and directions given by this court. The fact being identical, this court is of the opinion that the present writ petition can also be disposed of and the directives given in the said case would have to be adhered to in the present case and the claim of the petitioner also has to be settled in similar terms.
7. Accordingly, the present writ petition also stands decided in terms of the order dated 20.02.2020 passed in WPS No.3568 of 2015. The respondents are directed to make good an amount of Rs.95,500/- towards

GPF amount of the employee forthwith. Release of said amount would be subject to verification of the GPF account of the employee.

8. With the aforesaid observations, the writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

inder