

(2022) 04 CHH CK 0072
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 2703 Of 2022

Brahmanand Sharma

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 19-04-2022

Acts Referred:

Indian Penal Code, 1860 — Section 34, 409, 420, 467, 468, 471

Citation : (2022) 04 CHH CK 0072

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Dhani Ram Patel, RM Solapurkar, Ashwani Shukla

Final Decision : Allowed

Judgement

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.1,65,000/-.

2. The facts of the case are that the petitioner was working on the post of Senior Agriculture Development Officer under the respondents. He retired from service w.e.f. 30.06.2012. At that point of time it was detected that the petitioner had been defrauded of his GPF amount to the tune of Rs.1,65,000/- which was reflected as withdrawal made from his GPF account. However, on verification, it was found that the said employee had never made any such withdrawal from his GPF. It was also found that the said amount was withdrawn by one Shri LN Ram and another person namely C.R. Yadav.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 read with Section 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.1,65,000/- though he stood retired in the year 2012 i.e. for about 9 years now 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facie it was found by the inspecting team that from the Account of S.D.O. Agriculture Dharamjaigarh, GPF amount was withdrawn by forgery and it was found that the amount has been illegally withdrawn by some person and FIR was directed to be lodged.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shows thereafter the enquiry was conducted and it was found that from the account of different persons GPF amount was withdrawn by forgery.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 earlier in WPS No.3568 of 2015 had an occasion to deal with an identical set of facts 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.1,65,000/-towards GPF amount of the petitioner within a period of 90 days from the date of receipt of copy of this order. Release of the said amount would be subject to verification of the GPF account of the petitioner so far as the figure of Rs.1,65,000/- is concerned.

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