

(2018) 05 CHH CK 0047
In the Chhattisgarh High Court
Case No : WRIT PETITION (S) NO. 2723 OF 2015

Rajendra Kumar Tiwari

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 09-05-2018

Acts Referred:

Citation : (2018) 05 CHH CK 0047

Hon'ble Judges : P. SAM KOSHY, J

Bench : Single Bench

Advocate : Naushina Ali, Shashank Thakur, Ramakant Pandey

Final Decision : Disposed Of

Judgement

1. This is second round of litigation. The challenge in the present writ petition is the order dated 28.05.2015 (Annexure P/1) which was communicated

to the petitioner on 29.06.2015 passed by the High Level Committee constituted by the State Govt. for redressal of pension and retiral dues.

2. The brief facts of the case is that, the petitioner was working as Upper Division Teacher in the Govt. Girls Higher Secondary School, Sada, Korba,

from where he stood retired on 30.11.2008. After retirement, the petitioner was not granted retiral dues payable to him. Subsequently, the petitioner

filed a writ petition i.e. WPS No.7222 of 2010 which stood disposed of on 25.03.2014 whereby the matter was ordered to be referred to the Pension

Committee. Meanwhile, the retiral dues and leave encashment payable to the petitioner was released except for the GPF amount. Though the matter

stood referred to the Committee, no prompt decision was taken compelling the petitioner to file a contempt petition i.e. Contempt Case (C)No.143 of

2015. The said Contempt Case was also disposed of on 20.03.2015 with a

direction that the authorities concerned should ensure that the Committee concludes the enquiry so far as petitioner's grievance is concerned within a period of two months.

3. Subsequently, the Committee is said to have in a haste concluded the entire enquiry and have passed the order impugned on 28.05.2015 affirming the decision of the respondents holding that there was negative balance shown in the GPF account of the petitioner which was liable to be recovered and it was ordered so.

4. The counsel for the petitioner submits that it is a case where the contention of the petitioner all along before the Committee was that of fraudulent withdrawals being made from the GPF account of the petitioner. It was also categorically stated before the Committee that the petitioner had never withdrawn any amount from his GPF account. That, there appears fake withdrawals being made by certain officers of the Education Department namely C.R. Kanwar, the then Block Education Officer, then Accountant K.L. Pandey and the Salary incharge R.S. Bareth etc. The contention of the petitioner further is that on the allegation/complaint made by the petitioner, an enquiry was also conducted by the Additional Superintendent of Police who in turn has given a detailed report on 02.05.2012 marked to the Superintendent of Police, Korba (Annexure P/3). In the said enquiry report there is a clear finding so far as misdeeds on the part of the then BEO, the then Accountant and the Salary Incharge. There was also finding of the enquiry officer that the allegation of fraudulent withdrawal stood confirmed and it was not just from the GPF account of the petitioner, but similar withdrawals were also made from the GPF accounts of other employees in the district Korba. The Additional Superintendent of Police had proposed for initiating proper steps in this regard.

5. The counsel for the petitioner submits that inspite of these facts being brought to the notice of the Committee, they have not care to consider these contentions so also the findings of Additional S.P. in his report (Annexure P/3). The Committee have simply called upon the officers against whom there was a categorical finding of the Additional S.P. and after having obtained affidavit from them, the Committee closed the enquiry and held that the findings of negative balance does not warrant interference and ordered for initiating recovery proceedings against the petitioner.

6. The State counsel, so also the counsel appearing for the respondent No.3 are not in a position to defend the order passed by the Committee. Neither are they in position to justify as to what transpired to the report of the Additional S.P. in which there is a clear finding of fraud played by the then BEO, the then Accountant and the Salary In-charge.

7. Given the said facts and also considering the submissions made in the preceding paragraphs and on perusal of impugned order (Annexure P/1), it clearly reflects that the Committee appears to have shown haste in concluding the enquiry only for the reason that there was a direction in the contempt case for deciding the case of the petitioner within a period of two months. The Committee has failed to discharge its duty for which it was constituted. The Committee was supposed to go threadbare into the enquiry report submitted by the Additional S.P. and should have also considered the entire submissions and contentions which the petitioner had brought to the notice of the Committee particularly in respect of fraud being played by the officers in the Education Department regarding fake withdrawals.

8. For the aforesaid reasons, the order of the Committee dated 28.05.2015 is not sustainable. The same deserves to be and is accordingly set aside.

The matter is remitted back to the Committee for conducting re-enquiry in the case of the petitioner's dispute pertaining to GPF amount payable to him. Let the Committee now conduct a thorough enquiry in this regard and give detail report as expeditiously as possible preferably within a period of four months.

9. Considering the fact that the petitioner himself has now crossed the age of 70 years, it is expected that the case of the petitioner would be considered by the Committee on priority basis and try to dispose of the matter within a period of four months granted.

10. At the same time, this court is also of the opinion that the report of the Additional S.P. Korba dated 02.05.2012 (Annexure P/3) cannot be brushed aside lightly. Let, the respondent No.4-Collector, Korba and respondent No.5-Superintendent of Police, Korba, conduct a joint enquiry further on the said report of Additional S.P. They may also get the signatures on the alleged withdrawal forms from the GPF account of the different employees verified from a handwriting expert and thereafter take appropriate steps in accordance with law.

11. The respondents No.4&5 would also take note of the fact that the record shows that vide order dated 15.07.2015 there is an order which reflects that the then BEO C.K. Kanwar was proceeded departmentally in the instant case and was also found guilty and was demoted to a lower post which confirms the fraud played by him. This also would be borne in mind by the respondents while taking action on the report of Additional S.P. (Annexure P/3). If required, they may also summon the petitioner as also the officers whose name appear in the report of the Additional S.P.
12. It is expected that the Collector and Superintendent of Police, Korba, shall also take a prompt decision at the earliest.
13. Accordingly, the petition stands allowed and disposed of.