

(9)

IN THE CHHATTISGARH HIGH COURT BILASPUR

W.P. No.88... of 2002

APPLICANT

: ANANT KUMAR MISHRA
AGED 68 YEARS
S/O LATE VIGYAN BHIKSHUK MISHRA
GOUSHALA ROAD, NEAR GANESH TALAB,
RAIGARH (CHHATTISGARH)

VERSUS

RESPONDENTS

- : 1. STATE OF CHHATTISGARH
THROUGH : CHIEF SECRETARY
D.K. BHAWAN, RAIPUR (C.G.)
2. JOINT DIRECTOR
TREASURY ACCOUNTS AND PENSION
SARKANDA, NUTAN COLONY CHOWK,
BILASPUR.
3. ASSISTANT DIRECTOR,
TREASURY ACCOUNTS AND PENSION
SARKANDA, NUTAN COLONY CHOWK,
BILASPUR.
4. PRINCIPAL,
NATWAR GOVT. MULTIPURPOSE
HIGHER SECONDARY SCHOOL, RAIGARH

P. R. No.82/02
Presented by Shri. *Swil Mishra*
dated7.11.02

WRIT UNDER ARTICLE 226 OF CONSTITUTION OF INDIA.

DETAILS OF APPLICATION

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. No. 88

सन् 2002

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<p><u>27.11.2002</u></p> <p>Shri Sunil Kant Mishra, counsel for the Petitioner.</p> <p>Shri Sanjay K. Agrawal, Deputy Advocate General for the respondents.</p> <p>Heard.</p> <p>By this writ petition filed under Article 226 of the Constitution of India, petitioner prays for a direction commanding respondents to pay gratuity and pension in respect of his son who died in service while he was working as an employee of the respondents.</p> <p>Petitioner's son namely Sanjay Kumar Mishra was serving as Lecturer in Govt. Higher Secondary School, Raigarh. He died in harness. The grievance of the petitioner is that he is the nominee and he has not been paid the gratuity and pension.</p>	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<p>So far as the gratuity is concerned it is submitted that the petitioner is entitled under the first proviso to section 4 of the Payment of Gratuity Act, 1972.</p> <p>Sub-section(1) of Section 4 of the Act is pertinent here which provides as under:</p> <p>"4. Payment of gratuity.__(1) Gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years.__</p> <p>(a) On his superannuation, or</p> <p>(b) On his retirement or resignation, or</p> <p>(c) On his death or disablement due to accident or disease:</p> <p><i>Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement"</i></p>	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<p>In support of his submission, learned counsel for the petitioner relied on a decision of High Court of Madhya Pradesh rendered in L.P.A.No.147/95, dt.13.8.1997 (Gwalior Bench) reported in 1998(1) MPLJ Note No.15 (<i>Premata Brij Narain Sharma -vs- State of M.P. and another</i>) wherein it has been held that the condition of completion of 5 years of service enumerated in Rule 44(1)(b) of Rules 1972 is applicable only to the employees who have discontinued service on any ground other than death. In case of death, this clause of completion of five years service will not apply as the same has been waived in substantive section 4 of Payment of Gratuity Act, 1972.</p> <p>So far as pension is concerned, let a decision be taken as early as possible preferably within a period of two months from the date of receipt/production of a copy of this order on a representation being filed afresh before respondents no.2 to 4 and if any adverse order is passed, the</p>	

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L.P. No. 88

भाषा का अधिक

सं 2002

आदेश पत्रक (पूर्वाज्ञापन)

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन भाषाओं में लिखी रिपोर्ट के अतिरिक्त आदेश
applicant shall be at liberty to approach this Court again challenging the said order. With this observation, this petition is disposed of.		
C.C. as per rules.		
Sd/- Fakhruddin Judge		

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