

CP-100/ ✓
(4)

BEFORE THE HON'BLE HIGH COURT OF JUDICATURE OF C.G. AT BILASPUR

W.P.. 3736 .. /2003 ✓

Petitioner - Shankar Lal Shrivastava
aged 67 years, s/o late Laxman Prasad
Shrivastava, Retired Assistant Teacher,
Govt. Primary School, Bodki,
Tahsil Balod, Distt. Durg,
R/o Gram Jhalmala, Tah. Balod,
Distt. DURG (C.G.)

Versus

- Respondents -**
- (1) State Govt. of C.G.
Through - The Secretary
School Education Deptt.,
D.K.S. Bhawan, RAIPUR (C.G.).
- (2) Distt. Education Officer,
DURG (C.G.).
- (3) Block Education Officer,
Balod, Distt. DURG (CG).
- (4) Joint Director,
Treasury & Account of Pension
Raipur (C.G.).

P.R. No. 3548/12
Presented by Shri R.S. Shrivastava
dated 12.11.02

RECEIVED COPY
12.11.02
Clerk to A G. Bilaspur

WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION
OF INDIA.

COMMIS.

आदेश पत्रक

मामला क्रमांक W.P.NO...3236/03
सन् 2000

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><u>29-4-2005</u></p> <p>Shri Ajay Shrivastava, counsel for the petitioner.</p> <p>Shri Bhaskar Pyasi, Panel Lawyer for the State/respondents.</p> <p>Heard both the counsel.</p> <p>This petition was admitted on 8-4-2004 and Panel Lawyer took notice, but thereafter no return was filed. Again the matter was listed on 30-3-2005 and counsel for the State sought 15 days' time to file return and the time was granted, but even after the lapse of round about four weeks no return has been filed.</p> <p>Since this matter pertains to retiral benefits to the petitioner who retired in the year 1996 and even after the lapse of 9 years the petitioner has not been given retiral benefits, therefore, in the circumstances, it is just and proper to dispose of this writ petition.</p> <p>The petitioner's case is that he was working as Assistant Teacher and he retired from the post of Assistant Teacher on 30th April 1996 and the petitioner is being deprived of the payment of the retiral benefits on the ground of pendency of Criminal Case No.34/1991 under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The allegation against the petitioner was that on 21-10-91 the petitioner caused disrespect to one Dhansai Satnami by calling him as 'Satnami' and the trial Court has convicted and sentenced him to undergo imprisonment</p>	

(पीछे देखें)

आदेश पत्रक

मामला क्रमांक सन् 200

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -२-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>for 6 months and pay a fine of Rs.1,000/-, against which the petitioner has preferred the appeal which is pending before this Court.</p> <p>Further case of the petitioner is that on account of pendency of the criminal case, which is not connected with his duties as public servant, respondents are not entitled to stop the payment of retiral benefits.</p> <p>The ground raised by the petitioner is justified. When a criminal case is pending against the petitioner which is not connected with service of the petitioner, respondents are not entitled to stop the retiral benefits to the petitioner. For this view, I am fortified by the decision of the Madhya Pradesh High Court in the matter of KUPPILI MOHAN RAO V. MANAGING DIRECTOR, F.C.I. AND OTHERS reported in 1998 (1) J.L.J. 97. In para-20 it has been held that 'in order to justify a disciplinary action by the employer, it must be some conduct contrary or inconsistent with the fulfillment of the express or implied conditions of service. Some nexus of the conduct with service, therefore, must exist to justify a disciplinary action particularly where the employer in its service regulations has enumerated the acts of misconduct. Any particular misconduct which is not comprehended in the enumerated misconducts in the Regulations cannot be disciplinarily dealt with.'</p>	

आदेश पत्रक

(46)

मामला क्रमांक सन् 200

..... विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>As the criminal charge levelled against the petitioner is not in connection with the employment of the petitioner or has no nexus with service, therefore, respondents are not entitled for stoppage of the retiral benefits to the petitioner.</p> <p>In the result, the writ petition is allowed. The respondents are directed to release the retiral benefits to the petitioner provided that apart from this criminal case, there is no other obstacle in release of the retiral benefits to the petitioner. In other words, this writ petition is allowed to the extent that for grant of retiral benefits to the petitioner that criminal case should not be treated as hurdle. The respondents are further directed to decide the pension case of the petitioner within a period of 3 months from today.</p>	<p>Sd/- L.C.BHADOO Judge</p>

Barve

(पीछे देखिये)

22/8/09
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11/9/09
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