

① CF 1002 ②

CF-1502

4830106  
P.R. No. \_\_\_\_\_  
Presented by Shri. S.K. Tiwari  
dated 27/5/86

VERSUS

..... 1] State of Chhattisgarh,  
Through: Revenue Secretary,  
D.K.S. Bhawan, Raipur (C.G.)

2] The Commissioner, Land-  
Record, Chhattisgarh, Raipur  
(C.G.)

3] The Collector, Durg  
District- Durg (C.G.).

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3/18/86  
CLERK to A. G. BLASPER

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUENCE OF WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS UNDER THE FACTS AND CIRCUMDTANCES OF THE CASE.



XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक

W.P.(S) No. 6730/2006

सन् 20

आदेश पत्रक (पूर्वानुबन्ध)

आदेश का दिनांक  
तथा आदेश क्रमांक

हस्ताक्षर सहित आदेश

कार्यालयीन मामलों में हिप्पी रजिस्ट्रार  
के अंतिम आदेश

SB : Hon'ble Shri Manindra Mohan Shrivastava, J.

30-04-2013

Shri S. K. Tiwari, counsel for petitioner.

Shri Adil Minhaj, Panel Lawyer for the State.

Heard.

By this petitioner, the petitioner has prayed for several reliefs, however, learned counsel for the petitioner presses only on the relief prayed for in para 7.4 of the petition to direct the respondent to give benefit of memorandum dated 14-07-1998 with all consequence and disburse arrears of the same.

Submission of learned counsel for the petitioner is that the petitioner was placed under suspension during service on account of charges of commission of offence under Prevention of Corruption Act. Later on, he was tried and convicted, which was maintained by the appellate Court also. Against the order of the appellate authority affirming conviction, the petitioner filed a petition before the Supreme Court and the matter is still pending. Contention of learned counsel for the petitioner is that though provisional pension is being paid to the petitioner, respondents are not granting the benefit of memo dated 14-07-1998. According to him, as and when, the revision takes place, provisional pension is required to be revised. He submits that, as the petitioner's pension could not be finalized on the ground of pendency of criminal case, provisional pension is required to be revised. He also submits that the respondents are duty bound to give dearness allowance.

On the other hand, learned State counsel submitted that while rejecting petitioner's claim for grant of benefit upon revision of pay scale, it was clearly stated in order dated 29-03-2006 that the petitioner will continue

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मासला क्रमांक

सन् 20

आदेश पत्रक (पूर्वानुबन्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	<p><del>to get provisional pension and dearness allowance and the said amount is</del></p> <p>being paid to the petitioner. Learned State counsel submits that the State authorities have discretion in the matter of granting provisional pension as envisaged in the provisions contained in the Rule 64 of the M.P. Civil Services (Pension) Rules, 1976 (In short "Rules of 1976"), therefore, the petitioner cannot claim provisional pension as of right.</p> <p>True it is that Rule 64 of the Rules of 1976 confers discretion on the authority to fix the provisional pension, it cannot be lost sight of that the petitioner is getting provisional pension since last 20 years. However, this fact also cannot be ignored that the petitioner has been convicted and the conviction was affirmed by the High Court and the matter is stated to be pending before the Supreme Court.</p> <p>Therefore, in these circumstances, all that can be done is to direct the State authorities to consider as to whether the provisional pension, which the petitioner is getting, is also required to be revised. For this purpose, the respondents shall take into consideration all relevant factors and then decide whether provisional pension, which the petitioner is getting since last 20 years, should be revised or not. On the statement made by the learned State counsel and the contents of Annexure P-6, it has to be observed that as far as dearness allowance is concerned, the same has been made admissible to the petitioner, therefore, the same shall be paid to the petitioner at the rates applicable from time to time.</p> <p>With the aforesaid observation, the petition is finally disposed off.</p>	
		<p>Sd/- Manindra Mohan Shrivastava Judge</p>