

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CONT No. 608 of 2021**

1. Smt. Gayatri Shukla W/o Shri K. K. Shukla Aged About 65 Years R/o 24, Sarita Vihar Colony, Beside Gitanjali City, Phase - II, Bahatarai Road, Bilaspur, Police Station Sarkanda, Tahsil And District Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

**---- Petitioner****Versus**

1. Niraj Bansod Director, Officer Of Director, Ayurved Yog Natural Therapy, Unani And Homeopathy (Ayush), D.K.S. Campus, Near Shastri Chowk, Raipur, Tahsil And District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
2. Diwakar Singh Rathore Joint Director, Office Of Joint Director, Treasury Account And Pension, Commissioner Office, Bastar Division, Jagdalpur, District Bastar, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh
3. Jagnu Ram Netam District Ayurved Officer, Office Of District Ayurved Officer, Jagdalpur, District Bastar, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh

**---- Respondents**


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For Petitioner	: Mr. Abhishek Pnadey, along with Ms. Laxmeen Pandey, Advocate.
For Respondents No. 1 & 3	: Ms. Akanksha Jain, Dy. G.A.
For Respondent No. 2	: Mr. Manoj Chouhan on behalf of Mr. Somkant Verma,

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**Hon'ble Shri Justice P. Sam Koshy****Order On Board****29.07.2022**

1. The present contempt petition has been filed alleging non-compliance of the order dated 09.12.2020 in WP(S) No. 4952 of 2020. Vide the said order, this Court had directed the respondents No. 2 to 4 to scrutinize the claim of the petitioner and to take an appropriate decision so far as release of pension and retiral benefits.

2. Today, when the matter is taken up for hearing, the Counsel for the Respondent No. 1 enters appearance and submits that it is a case where the petitioner in-fact stood terminated under the Erstwhile State of Madhya Pradesh vide order dated 17.10.1986. The order of termination was subjected to challenge before the Madhya Pradesh High Court vide WP No. 3824 of 1986. The High Court of Madhya Pradesh entertaining the writ petition granted an interim protection to the extent that the termination order was kept under suspension. The petitioner continued in employment pursuant the said interim protection. Meanwhile, the said writ petition i.e. WP no. 3824 of 1986 got dismissed for want of prosecution on 12.05.1988 from the Madhya Pradesh State Administrative Tribunal. Subsequent to the abolition of the State Administrative Tribunal, the application for restoration stood transferred to the High Court. The order of dismissal in default was not known to the petitioner and when she came to know about it, she initially filed an MCC before the Chhattisgarh High Court i.e. MCC No. 333 of 2009, which got disposed of vide order dated 20.08.2009 permitting the petitioner to approach the Madhya Pradesh High Court for restoration of the writ petition. Subsequently, the petitioner has filed the MCC in Madhya Pradesh High Court, which was registered as MCC No. 1253 of 2009, it has been informed that the said MCC is still pending consideration before the Madhya Pradesh High Court.
3. Considering the fact that the matter pertaining to the termination from service of the petitioner, has till date not attained finality in as much as the MCC filed by the petitioner seeking for restoration of the writ

petition where the order of termination of the petitioner is under challenge, is pending consideration before the Madhya Pradesh High Court. It has to be presumed and inferred that the order of termination unless it is set aside/ quashed by a Judgment of the High Court, the petitioner as such would not be in a position to claim pension and pensionary benefits including retiral dues.

4. What needs appreciation at this juncture that in the event of the MCC No. 1253 of 2009 filed by the petitioner stands allowed and the writ petition No. 3824 of 1986 stands restored and finally if that writ petition is dismissed that would amount to upholding of the order of termination. As a natural consequence thereafter, the petitioner would not be entitled for any benefits whatsoever except for the monetary benefits that the petitioner has received during the intervening period, whereby she was permitted to continue in employment by virtue of the interim order of the Madhya Pradesh High Court.
5. In view of the aforesaid factual matrix of the case, this Court at this juncture does not find the instant case to be a case where the respondents can be prosecuted for having committed any contempt.
6. Given the fact that the original writ petition of the petitioner i.e. WP No. 3824 of 1986 and MCC No. 1253 of 2009 is yet to be finalized before the Madhya Pradesh High Court. During the intervening period, if the respondents have deferred the issue of releasing the pensionary and retiral benefits, the same cannot be said to be a deliberate or a willful non-compliance. The respondents have assured the petitioner that in the event, if the writ petition preferred by the petitioner questioning the termination stands allowed, she would

thereafter be entitled for all the consequential benefits, as would be provided by the Court hearing the writ petition

7. Reserving the right of the petitioner to avail the said benefits at an appropriate stage after the disposal of WP No. 3824 of 1986 & MCC No. 1253 of 2009 pending before the Madhya Pradesh, the present contempt petition accordingly stands disposed of. The respondents stand discharged of the contempt proceedings.

**Sd/-**

**(P. Sam Koshy)**  
**Judge**