NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
W.P. (S) No. 1904 of 2023

Dasrathi Behra S/o Balbhadra Behra Aged About 74 Years Rted. Head Master, Primary School, At/post-Vill/post Libra, Block Tamnar, District : Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of School Education, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District : Raipur, Chhattisgarh
2. Secretary Department Of Finance, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District : Raipur, Chhattisgarh
3. Director Directorate Of Public Instructions, Indrawati Bhawan, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District : Raipur, Chhattisgarh
4. Joint Director Treasury, Accounts And Pension, Bilaspur Division, District : Bilaspur, Chhattisgarh
5. District Education Officer Raigarh, District : Raigarh, Chhattisgarh
6. Block Education Officer Tamnar, Block Tamnar, District : Raigarh, Chhattisgarh

--- Respondents

WPS No. 3260 of 2020

1) Chandra Prakash Shivhare S/o Late M.S. Shivhare Aged About 72 Years Caste Vaishya, R/o Karamchari Colony, Thana And Tahsil Bhanupratappur, District Uttar Bastar Kanker, Chhattisgarh., District : Kanker, Chhattisgarh
2) Devlal Yadav S/o Late Sukhlal Yadav Aged About 74 Years Caste Raut, R/o Nehru Nagar, Narayanpur, Thana And Tahsil Bhanupratappur, District Uttar Bastar Kanker, Chhattisgarh., District : Kanker, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary Department Of Finance, Mantralaya, Mahanadi Bhawan Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

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Bilaspur

2. Secretary School Education Department Mantralaya, Mahanadi Bhawan Naya Raipur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

3. Divisional Joint Director Funds, Accounts And Pension, Bastar Division Jagdalpur, District Bastar, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh

--- Respondents

WPS No. 3517 of 2020

Arun Kumar Sahu S/o Late Bhuneshwar Prasad Sahu, Aged About 63 Years R/o House No. 511, Ward No. 10, Rajendra Prasad Ward, Block, Post And Police Station Berla, District Bemetara Chhattisgarh, District : Bemetara, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Finance, Mahanadi Bhawan, Mantralaya, New Raipur, Atal Nagar, Police Station Rakhi, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

2. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan, Mantralaya, New Raipur, Police Station Rakhi, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

3. The Chief Executive Officer, Janpad Panchayat Berla, District Bemetara, District Bemetara Chhattisgarh, District : Bemetara, Chhattisgarh

4. Divisional Joint Director, Directorate Of Treasury Accounts And Pension, Durg Division, Durg, District Durg Chhattisgarh, District : Durg, Chhattisgarh

--- Respondents

WPS No. 3597 of 2020

- Surendra Verma S/o Shri P.P. Verma Aged About 64 Years Occupation Sub Inspector (M) (Retired) Under The Superintendent Of Police, Raigarh District Raigarh Police , Raigarh District Raigarh Resident Of Gondpara, Police Station City Kotwali , District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Home Police Affairs , Mahanadi Bhawan, New Mantralaya , Atal Nagar District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

Web Copy
High Court of Chhattisgarh
Bilaspur

2. The State Of Chhattisgarh Through Secretary, Finance Department Mahanadi Bhawan, New Mantralaya , Atal Nagar District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. The Director General Of Police Police Head Quarter Raipur , Atal Nagar District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. The Superintendent Of Police Raigarh , District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh
5. The Joint Director Treasury , Account And Pension , Bilaspur , District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

--- Respondents

WPS No. 4051 of 2020

- J.R. Patel, S/o Sukrit Ram Patel, Aged About 63 Years R/o Village And Post Devri, District Mungeli Chhattisgarh. 495334, District : Mungeli, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Secretary, Department Of Agriculture, Farmer Welfare And Bio Technology, Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. State Of Chhattisgarh, Through Secretary, Department Of Finance, Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. State Of Chhattisgarh, Through Secretary, Department Of General Administration, Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

--- Respondents

WPS No. 4188 of 2020

- Pramod Singh S/o Late Shri Makhan Singh Aged About 63 Years R/o Dau Choura, Ward No. 16 Khairagarh, District Rajnandgaon , Pin 491 881., District : Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education , Mahanadi Bhawan, Atal Nagar (Nava Raipur) Revenue And Civil District Raipur Chhattisgarh.,

Web Copy
High Court of Chhattisgarh
Bilaspur

District : Raipur, Chhattisgarh

2. State Of Chhattisgarh Through Secretary, Department Of Finance , Mahanadi Bhawan, Atal Nagar (Nava Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. State Of Chhattisgarh Through Secretary, Department Of General Administration , Mahanadi Bhawan, Atal Nagar (Nava Raipur) , Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
4. District Schhol Education Indrawati Bhawan Nava Raipur Atal Nagar , Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

--- Respondents

WPS No. 4201 of 2020

- Om Hari Mishra S/o Late Rewa Ram Mishra Aged About 62 Years Ward No. 9, House No. 306, Agyey Nagar, Bilaspur, District Bilaspur, District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Water Resources, Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
2. State Of Chhattisgarh Through Secretary, Department Of Finance, Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
3. State Of Chhattisgarh Through Secretary, Department Of General Administration, Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh

--- Respondents

WPS No. 4210 of 2020

- Mujeeb Mohammed Shah S/o Shri Muneer Mohammed Shah Aged About 62 Years R/o C- 291 Vallabh Nagar Opp. Sant Dyaneshwar Hr. Sec. School Behind Arihant Complex , Raipur Chhattisgarh Pin No. 492001., District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mantralaya, Mahanadi

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High Court of Chhattisgarh
Bilaspur

Bhawan, Atal Nagar, Nawa Raipur Civil And Revenue District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

2. State Of Chhattisgarh Through The Secretary, Department Of Finance, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur Civil And Revenue District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. State Of Chhattisgarh Through The Secretary, Department Of General Administration, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur Revenue And Civil District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
4. Chief Executive Officer Chhattisgarh Rural Road Development Agency, Vikas Bhawan, Civil Lines Raipur Revenue And Civil And Revenue District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

--- Respondents

WPS No. 4536 of 2020

- Mangturam Khandey S/o Late Dhaniram Kandey Aged About 60 Years R/o Sakin Charra, Police Station Sarangarh District Raigarh , Chhattisgarh 496445., District : Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Department Of School Education, Mahanadi Bhawan, Atal Nagar(Naya Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. State Of Chhattisgarh Through Secretary, Department Of Finance, Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. State Of Chhattisgarh Through Secretary, Department Of General Administration , Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

--- Respondents

WPS No. 4576 of 2020

- Dr. G. P. Dubey S/o Hetram Dubey, Aged About 63 Years R/o 43, Pashuram Chowk, Champa, District Janjgir - Champa Chhattisgarh. 495671, District : Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

Web Copy
High Court of Chhattisgarh
Bilaspur

1. State Of Chhattisgarh, Through Secretary, Department Of Health And Family Welfare, Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. State Of Chhattisgarh, Through Secretary, Department Of Finance, Mahanadi Bhawan, Atal Nagar (Naya Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
3. State Of Chhattisgarh, Through Secretary, Department Of General Administration, Mahanadi Bhawan, Atal Nagar, (Naya Raipur), Revenue And Civil District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

--- Respondents

WPS No. 2741 of 2021

- Moolchand Awasti S/o Radhika Prasad Awasthi, Aged About 70 Years Occupation Retired Head Master, Aadim Jati Welfare Department R/o Sarju Bagicha, Masanganj, Bilaspur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Aadim Jati Welfare Department Mantralaya, Mahanadi Bhawan, Naya Raipur, Atal Nagar, Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Divisional Joint Director, Treasury, Account And Pension Bilaspur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

--- Respondents

WPS No. 3996 of 2021

- Arun Kumar Chakraborty S/o Late Shri Late Nani Gopal Chakraborty Aged About 63 Years R/o Quarter No. 9, Near Mesnet, Shankar Nagar, Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Finance Mahanadi Bhawan, Mantralaya, New Raipur, Atal Nagar, Police Station Rakhi, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. State Of Chhattisgarh Through The Secretary, Public Works Department, Nirman Bhawan, Sector 19, North Block Nawa

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High Court of Chhattisgarh
Bilaspur

Raipur, Atal Nagar, Mahanadi Bhawan, Mantralaya, Police Station Rakhi, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

3. Divisional Joint Director Directorate Of Treasury Accounts And Pension Raipur Division Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

--- Respondents

WPS No. 4172 of 2021

- Parmanand Patnayak S/o Late Minketan Patnayak Aged About 64 Years Retd. Chief Municipal Officer, R/o Village / Post Tamnar, Tahsil Tamnar, Distt. Raigarh (Chhattisgarh), District : Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Urban Administration And Development, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur (Chhattisgarh), District : Raipur, Chhattisgarh
2. Director Directorate Of Urban Administration And Development, Indrawati Bhawan, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur (Chhattisgarh)
3. Joint Director Urban Administration And Development Department, Bilaspur Division, Old Rto Office, Bilaspur, District Bilaspur (Chhattisgarh)
4. Joint Director Treasury, Accounts And Pension, Bilaspur Division, Bilaspur, Distt. Bilaspur (Chhattisgarh)
5. Chief Municipal Officer Municipal Council, Janjgir, Naila, District Janjgir-Champa (Chhattisgarh)

--- Respondents

WPS No. 2095 of 2022

- Vishram Ram Bhagat S/o Late Shri Tahlu Ram Aged About 64 Years Retired Lecturer, R/o Village Post Dugdugiya (Hanumantekri), Tahsil Kunkuri, District Jashpur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, School Education Department, Mantralaya Mahanadi Bhawan, New Raipur Chhattisgarh.
2. The Joint Director Directorate Of Public Instruction Division

Web Copy
High Court of Chhattisgarh
Bilaspur

Sarguja (Ambikapur) , District Sarguja Chhattisgarh.

3. The Director Directorate Of Public Instruction Raipur , District Raipur Chhattisgarh.
4. District Education Officer Jashpur, District Jashpur Chhattisgarh.
5. The Joint Director Treasury, Accounts And Pension, Division Sarguja (Ambikapur) District Sarguja Chhattisgarh

--- Respondents

For Petitioners	**-**	Shri Manoj Chouhan, Shri Tridib Bhattacharya, Shri Awadh Tripathi, Shri Yashwant Thakur, Shri Prakash Tiwari, Shri Parag Kotecha, Shri Dhaniram Patel, Advocate
For State	-	Shri Sandeep Dubey – Dy. AG, Smt. Sunita Jain - GA, Shri Ravi Bhagat, Dy. GA

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Bilaspur

Order on Board by Hon'ble Shri Justice Sachin Singh Rajput

04/05/2023

Since the relief sought for by the petitioners is one and the same, all the aforesaid petitions are being disposed of by this common order:-

2. Learned counsel for the petitioners submit that the retired from service on the last working day of June of their respective year in which their retirement fell due, but they have been deprived of their annual increment payable to them on succeeding 1st of July.

3. The case of the petitioners in nut shell is that during their serice period the annual increment for a specific period has not been given to them and now they got retired on attaining the age of superannuation. They submit that the petitioners have worked for the entire period and therefore they are entitled for grant of annnual increment. They further submit that the Hon'ble Supreme Court in the case of **The Director (Admn. and HR) KPTCL & Ors. Versus C.P. Mundinamani and Ors.,** reported in **2023 SCC**

Online SC 401, held that the Government employees cannot be denied the annual increment merely because he has retired on the very next day of earning the increment. He further placed reliance on the judgment of M.P. High Court in WA No.363/2020 in which it has been held as under:

> 'The question is having worked for entire year to the satisfaction of the employer whether an incumbent can be denied the benefit merely because he stood retired on a day early to the date of increment. An issue of similar nature came up for consideration before the Supreme Court in **S. Banerjee vs. Union of India** : **AIR 1990 SC 285** wherein the petitioner who having retired on January 1st 1986 claimed the benefit under paragraph 17.3 of Fourth Central Pay Commission Report Part II, held that-
>
> > "6. Under paragraph 17.3, the benefits recommended will be avail to employees retiring during the period, January 1, 1986 to September 30, 1986. So the employees retiring on January, 1986 will be entitled to the benefit under para-graph 17.3. The question that arises for our consideration is whether the petitioner has retired on January 1, 1986. We have already extracted the petitioner was permitted to retire voluntarily from the service of the Registry of the Supreme Court with effect from the forenoon of January 1, 1986. It is true that in view of the proviso to rule 5(2) of the Rules, the petitioner will not be entitled to any salary for the day on which he actually retired. But, in our opinion, that has no bearing on the question as to the date of retirement. Can it be said that the petitioner retired on December 31, 1985? The answer must be in the negative. Indeed, Mr. Anti Dev Singh, learned counsel appearing on behalf of the respondents, frankly conceded that the petitioner could not be said to have retired from the service of this Court on December 31, 1985. Then it must be held that the petitioner had retired with effect from January 1, 1986 and that is also the order of this Court dated December 6, 1985. It may be that the petitioner had retired with effect from the forenoon of January 1, 1986 as per the said order of this Court, that is to say, as soon as January 1, 1986 had commenced the petitioner retired. But, nevertheless, it has to be said that the petitioner had retired on January 1, 1986 and not on December 31,

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High Court of Chhattisgarh
Bilaspur

> 1985. In the circumstances, the petitioner comes within the purview of para-graph 17.3 of the recommendations of the Pay Commission."

4. The Hon'ble Division Bench of Madras High Court in the case of **P. Ayyamperumal Vs. The Registrar** decided on 15-9-2017 in WP No.15732 of 2017 has held in paras 6 & 7 which read as under.

> "6. In the case on hand, the petitioner got retired on 30.06.2013. As per the Central Civil Services (Revised Pay) Rules, 2008, the increment has to be given only on 01.07.2013,but he had been superannuated on30.06.2013 itself. The judgment referred to by the petitioner in State of Tamil Nadu, rep. by its Secretary to Government, Finance Department and others v. M. Balasubramaniam, reported in CDJ 2012 MHC 6525, was passed under similar circumstances on 20.09.2012, wherein this Court confirmed the order passed in W.P.No.8440 of 2011 allowing the writ petition fled by the employee, by observing that the employee had completed one full year of service from 01.04.2002 to 31.03.2003, which entitled him to the benefit of increment which accrued to him during that period.
>
> 7. The petitioner herein had completed one full year service as on 30.06.2013, but the increment fell due on 01.07.2013, on which date he was not in service. In view of the above judgment of this Court, naturally he has to be treated as having completed one full year of service, though the date of increment falls on the next day of his retirement. Applying the said judgment to the present case, the writ petition is allowed and the impugned order passed by the first respondent-Tribunal dated 21.03.2017 is quashed. The petitioner shall be given one notional increment for the period from01.07.2012 to 30.06.2013, as he has completed one full year of service, though his increment fell on 01.07.2013, for the purpose of pensionary benefits and not for any other purpose. No costs."

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High Court of Chhattisgarh
Bilaspur

5. Thereafter, the matter travelled upto the Hon'ble Supreme Court, wherein the Hon'ble Supreme Court in SLP (C) Diary No.(s) 22283/2018 dismissed the SLP filed by the Union of India against which a review petition was filed before the Hon'ble Supreme Court,

which has also been dismissed. He would further submit that his case is covered by the judgment passed by the Hon'ble Division Bench of Madras High Court, affirmed by the Hon’ble Supreme Court as well as the judgment passed by the Division Bench of High Court of Madhya Pradesh.

6. In view of the above fact, the petitioners shall be at liberty to make a representation within a period of four weeks from today before the concerned respondent/authority. On such representation being made, the respondent/authority shall decide the same in the light of the aforesaid judgments, within a time period of 8 weeks from the date of receipt of the representation.

7. With the aforesaid observations & directions, these petitions are disposed of.

Sd/-

(Sachin Singh Rajput)
Judge

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Jyotishi