

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No.2721 of 2011, W.P. (S) No.2240 of 2017, W.P. (S) No.1532 of 2018, W.P. (S) No.2710 of 2020, W.P. (S) No.4712 of 2010, W.P. (S) No.906 of 2020, W.P. (S) No.2786 of 2020, W.P. (S) No.4438 of 2020, W.P. (S) No.922 of 2021, W.P. (S) No.2489 of 2021, W.P. (S) No.2615 of 2021, W.P. (S) No.3429 of 2021, W.P. (S) No.3454 of 2021, W.P. (S) No.4267 of 2021, W.P. (S) No.4590 of 2021, W.P. (S) No.5137 of 2021, W.P. (S) No.5149 of 2021, W.P. (S) No.5163 of 2021, W.P. (S) No.5179 of 2021, W.P. (S) No.5198 of 2021, W.P. (S) No.5628 of 2021, W.P. (S) No.141 of 2022, W.P. (S) No.156 of 2022, W.P. (S) No.232 of 2022, W.P. (S) No.603 of 2022, W.P. (S) No.1034 of 2022, W.P. (S) No.1115 of 2022, W.P. (S) No.2263 of 2022, W.P. (S) No.2462 of 2022, W.P. (S) No.2478 of 2022, W.P. (S) No.2486 of 2022, W.P. (S) No.3386 of 2022, W.P. (S) No.3914 of 2022, W.P. (S) No.4047 of 2022, W.P. (S) No.5003 of 2022, W.P. (S) No.5048 of 2022, W.P. (S) No.5402 of 2022, W.P. (S) No.6286 of 2022, W.P. (S) No.115 of 2023, W.P. (S) No.5825 of 2009 with W.P. (S) No.5927 of 2009, W.P. (S) No.6103 of 2014, W.P. (S) No.2781 of 2017, W.P. (S) No.1285 of 2018 with W.P. (S) No.2755 of 2022, W.P. (S) No.2438 of 2018, W.P. (S) No.4498 of 2018, W.P. (S) No.1889 of 2019, W.P. (S) No.319 of 2020, W.P. (S) No.515 of 2020, W.P. (S) No.1168 of 2021, W.P. (S) No.1673 of 2021, W.P. (S) No.4132 of 2021, W.P. (S) No.4274 of 2021, W.P. (S) No.4043 of 2022 with W.P. (S) No.4698 of 2022, W.P. (S) No.1107 of 2019, W.P. (S) No.5678 of 2019, W.P. (S) No.976 of 2021, W.P. (S) No.2474 of 2022, W.P. (S) No.1761 of 2021 with W.P. (S) No.689 of 2023, W.P. (S) No.4240 of 2021, W.P. (S) No.6106 of 2003, W.P. (S) No.1175 of 2007, W.P. (S) No.2070 of 2010, W.P. (S) No.467 of 2011, W.P. (S) No.1397 of 2012, W.P. (S) No.4297 of 2012, W.P. (S) No.7754 of 2013, W.P. (S) No.661 of 2014, W.P. (S) No.1955 of 2014, W.P. (S) No.3808 of 2014, W.P. (S) No.4806 of 2014 with W.P. (S) No.4684 of 2016 with W.P. (S) No.2249 of 2017, W.P. (S) No.5115 of 2014, W.P. (S) No.5128 of 2014 with W.P. (S) No.2770 of 2020, W.P. (S) No.5661 of 2014, W.P. (S) No.227 of 2015, W.P. (S) No.752 of 2015, W.P. (S) No.986 of 2015, W.P. (S) No.1295 of 2015, W.P. (S) No.1944 of 2015, W.P. (S) No.3180 of 2015, W.P. (S) No.4031 of 2015, W.P. (S) No.5550 of 2015, W.P. (S) No.5683 of 2015, W.P. (S) No.6139 of 2015 with W.P. (S) No.6819 of 2018, W.P. (S) No.59 of 2016, W.P. (S) No.2354 of 2016, W.P. (S) No.2492 of 2016, W.P. (S) No.2600 of 2016, W.P. (S) No.2701 of 2016, W.P. (S) No.2925 of 2016, W.P. (S) No.3228 of 2016, W.P. (S) No.4251 of 2016, W.P. (S) No.4621 of 2016, W.P. (S) No.4623 of 2016, W.P. (S) No.5566 of 2016, W.P. (S) No.5595 of 2016, W.P. (S) No.6258 of 2016, W.P. (S) No.6403 of 2016 with W.P. (S) No.6405 of 2016, W.P. (S) No.6736 of 2016, W.P. (S) No.6802 of 2016 with W.P. (S) No.6801 of 2016, W.P. (S) No.7186 of 2016, W.P. (S) No.7520 of 2016, W.P. (S) No.75 of 2017 with W.P. (S) No.64 of 2017, W.P. (S) No.294 of 2017, W.P. (S) No.474 of 2017, W.P. (S) No.515 of 2017, W.P. (S) No.888 of 2017, W.P. (S) No.1120 of 2017, W.P. (S) No.1560 of 2017, W.P. (S) No.1595 of 2017, W.P. (S) No.1783 of 2017, W.P. (S) No.1840 of 2017, W.P. (S) No.1952 of 2017, W.P. (S) No.2189 of 2017, W.P. (S) No.2206 of 2017, W.P. (S) No.2226 of 2017, W.P. (S) No.2298 of 2017, W.P. (S) No.2391 of 2017, W.P. (S) No.2495 of 2017, W.P. (S) No.3339 of 2017, W.P. (S) No.3360 of 2017 with W.P. (S) No.3664 of 2021, W.P. (S) No.3732 of 2017, W.P. (S) No.4200 of 2017,

W.P. (S) No.4509 of 2017, W.P. (S) No.4550 of 2017, W.P. (S) No.4851 of 2017, W.P. (S) No.4985 of 2017, W.P. (S) No.6757 of 2017, W.P. (S) No.7380 of 2017, W.P. (S) No.7599 of 2017, W.P. (S) No.7603 of 2017, W.P. (S) No.732 of 2018 with W.P. (S) No.2922 of 2018 with W.P. (S) No.5861 of 2018 with W.P. (S) No.5986 of 2018, W.P. (S) No.778 of 2018, W.P. (S) No.839 of 2018, W.P. (S) No.938 of 2018, W.P. (S) No.1498 of 2018, W.P. (S) No.2540 of 2018 with W.P. (S) No.2821 of 2018, W.P. (S) No.2625 of 2018, W.P. (S) No.3979 of 2018, W.P. (S) No.4296 of 2018, W.P. (S) No.4733 of 2018, W.P. (S) No.4839 of 2018, W.P. (S) No.4858 of 2018, W.P. (S) No.5085 of 2018, W.P. (S) No.5217 of 2018, W.P. (S) No.5243 of 2018, W.P. (S) No.5336 of 2018 with W.P. (S) No.5641 of 2017 with W.P. (S) No.864 of 2018 with W.P. (S) No.2492 of 2021, W.P. (S) No.6135 of 2018, W.P. (S) No.6300 of 2018 with W.P. (S) No.4121 of 2021, W.P. (S) No.243 of 2019, W.P. (S) No.550 of 2019, W.P. (S) No.793 of 2019, W.P. (S) No.861 of 2019, W.P. (S) No.1017 of 2019 with W.P. (S) No.2861 of 2023, W.P. (S) No.1253 of 2019, W.P. (S) No.1308 of 2019, W.P. (S) No.1823 of 2019, W.P. (S) No.2018 of 2019, W.P. (S) No.2187 of 2019, W.P. (S) No.2380 of 2019, W.P. (S) No.3177 of 2019, W.P. (S) No.3429 of 2019, W.P. (S) No.3807 of 2019, W.P. (S) No.4109 of 2019, W.P. (S) No.4166 of 2019, W.P. (S) No.4246 of 2019, W.P. (S) No.4625 of 2019, W.P. (S) No.4670 of 2019, W.P. (S) No.4736 of 2019, W.P. (S) No.5276 of 2019, W.P. (S) No.5558 of 2019, W.P. (S) No.5563 of 2019, W.P. (S) No.5583 of 2019, W.P. (S) No.6905 of 2019, W.P. (S) No.7042 of 2019, W.P. (S) No.7370 of 2019, W.P. (S) No.136 of 2020, W.P. (S) No.139 of 2020, W.P. (S) No.171 of 2020, Cont. Case (Civil) No. 247 of 2020 with W.P. (S) No.7417 of 2017 with Cont. Case (Civil) No.382 of 2020 with Cont. Case (Civil) No.394 of 2020 with W.P. (S) No.886 of 2021 with W.P. (S) No.4422 of 2021 with W.P. (S) No.4434 of 2021, W.P. (S) No.1026 of 2020, W.P. (S) No.1201 of 2020, W.P. (S) No.1505 of 2020, W.P. (S) No.1861 of 2020, W.P. (S) No.2205 of 2020, W.P. (S) No.2355 of 2020, W.P. (S) No.2464 of 2020, W.P. (S) No.2875 of 2020, W.P. (S) No.3029 of 2020, W.P. (S) No.3199 of 2020, W.P. (S) No.3851 of 2020, W.P. (S) No.4022 of 2020, W.P. (S) No.4037 of 2020, W.P. (S) No.4058 of 2020, W.P. (S) No.4059 of 2020, W.P. (S) No.4113 of 2020, W.P. (S) No.4366 of 2020 with W.P. (S) No.4686 of 2019, W.P. (S) No.4368 of 2020, W.P. (S) No.4437 of 2020, W.P. (S) No.103 of 2021, W.P. (S) No.159 of 2021, W.P. (S) No.298 of 2021, W.P. (S) No.433 of 2021, W.P. (S) No.491 of 2021, W.P. (S) No.519 of 2021, W.P. (S) No.606 of 2021, W.P. (S) No.607 of 2021, W.P. (S) No.648 of 2021, W.P. (S) No.929 of 2021, W.P. (S) No.984 of 2021, W.P. (S) No.1169 of 2021, W.P. (S) No.1237 of 2021 with W.P. (S) No.1267 of 2021, W.P. (S) No.1352 of 2021, W.P. (S) No.1465 of 2021, W.P. (S) No.1677 of 2021, W.P. (S) No.1930 of 2021, W.P. (S) No.1946 of 2021, W.P. (S) No.2031 of 2021, W.P. (S) No.2053 of 2021, W.P. (S) No.2168 of 2021, W.P. (S) No.2195 of 2021, W.P. (S) No.2403 of 2021, W.P. (S) No.2473 of 2021, W.P. (S) No.2616 of 2021, W.P. (S) No.2729 of 2021, W.P. (S) No.2747 of 2021, W.P. (S) No.2830 of 2021, W.P. (S) No.2940 of 2021, W.P. (S) No.3054 of 2021, W.P. (S) No.3067 of 2021, W.P. (S) No.3096 of 2021 with W.P. (S) No.5035 of 2021, W.P. (S) No.3383 of 2021, W.P. (S) No.3453 of 2021, W.P. (S) No.3519 of 2021, W.P. (S) No.3604 of 2021, W.P. (S) No.3606 of 2021, W.P. (S) No.3907 of 2021, W.P. (S) No.3939 of 2021, W.P. (S) No.3987 of 2021, W.P. (S) No.4254 of 2021, W.P. (S) No.4300 of 2021, W.P. (S) No.4304 of 2021, W.P. (S) No.4332 of 2021, W.P. (S) No.4363 of 2021, W.P. (S) No.4459 of

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CORAM: HON'BLE THE ACTING CHIEF JUSTICE

/Dated: 23rd February 2024

These matters were notified through notice dated 7th February 2024 and the parties were duly informed beforehand that Special Benches shall be constituted on 17th February 2024 for hearing of the pension and other pensionary benefits matters. Not only that, the respondents were put to notice on 12th February 2024 through advance publication of the matters to be listed on 17th February 2024.

2. However, no serious efforts seem to have been taken by the respondents for resolving the claims raised by the petitioner(s). This is really a matter of concern that a pensionary benefits matter filed in the year 2002 is still pending in this High Court. As the number of cases listed today would indicate, hundreds of other pension/pensionary benefits matters are listed pending a final resolution. This is not to put the blame on the employer-respondent but then the state of affairs as prevailing today cannot be approved. The delay in settlement of retiral benefits cause frustration in the retired employees and must be avoided at all costs. The situation is aggravated when the Court finds that there are delays in payment/fixation of

family pension on trivial grounds.

3. At this stage, this needs to be indicated that pension is a reward for gratuitous service and a constitutional right of a retired government employee (refer, "*Deokinandan Prasad v. State of Bihar*" (1971) 2 SCC 330). The Hon'ble Supreme Court has indicated in "*State of Kerala v. M. Padmanabhan Nair*" (1985) 1 SCC 429 that the delay in settlement and disbursement of pension and other retiral benefits must be visited with the penalty of payment of interest till actual payment is made.

4. Under the Payment of Gratuity Act, 1972, the employee cannot be deprived of gratuity payable to him wholly or in part if the conditions under sub-section (6) to section 4 of the Act are not satisfied.

5. Under the Jharkhand Pension Rules, 2000, the pension payable to an employee can be withheld or forfeited, partly or wholly, if the employee has been found guilty of gross misconduct committed during his service or he has been convicted in a criminal case. The learned counsels appearing for the respondents have indicated that there is an amendment made in Rule 43(b) of the Jharkhand Pension Rules, 2000 and now pension of a government employee can be withheld during pendency of a departmental proceeding. In this context, this Court would only indicate that in "*State of Jharkhand v. Jitendra Kumar Srivastava*" (2013) 12 SCC 210 the Hon'ble Supreme Court has held that pension to a government employee cannot be withheld during pendency of the departmental proceeding against him.

6. Following the various decisions of the Hon'ble Supreme Court, this Court is of the opinion that wherever it is found that the petitioner has continuously worked for 10 years which is the minimum period for grant of pension, the payment/grant of pension to such petitioner(s) should not have been withheld on the grounds, such as, unavailability of service records or part of service records, non-furnishing of no-dues certificate and grounds of similar nature. In view of the judgment in "*Bhuvnesh Kumar Dwivedi v. Hindalco Industries Ltd.*" (2014) 11 SCC 85 this Court is also of the opinion that a plea of artificial break in service shall not be a legal ground for not granting pension provided the petitioner(s) fulfills other requisite conditions for grant of pension.

7. This Court would further indicate that merely because an order

of absorption/regularization was not passed by the respondent-authority or passed after several years of service, even though the petitioner had worked for decades altogether and was paid salary, the petitioner(s) cannot be deprived of the pensionary benefits. On this issue, the State of Jharkhand shall be bound by the decisions of this Court which have attained finality; one of such cases' decision was in SLP (C) No.16918 of 2015 with SLP(C) No.27461 of 2015.

8. This Court is informed that the National Lok Adalat is scheduled to be held on 9th March 2024 and, therefore, it is expected that the learned counsels for the parties shall give details of the case in which a reasonable settlement is arrived at by 5th March 2024. There is no doubt in the mind of the Court that the State of Jharkhand shall adhere to its litigation policy and agree to the claims raised by similarly situated persons in cases where the issue has been decided by this Court.

9. Post these matters on 5th March 2024.

10. Let a copy of the order be given to the learned counsel for the parties.

(Shree Chandrashekar, A.C.J)

Manoj/R.K.