



CGHC010063912024



2026:CGHC:37860

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 163 of 2024

Central Industrial Security Force Commandant KSTPP Korba, PO Vikash Bhawan, Jamnipali, Korba, Taluka-Korba, District-Korba (CG)

... Petitioner

versus

Ram Karan Sharma S/o Lt. Dularam Sharma, Aged About 70 Years Village-Mair Tola Bhamraha, P.S. Beohari, Shahdol (M.P.)

... Respondent

For Petitioner	:	Mr. Ramakant Mishra, DSGI and Mr. Rishabh Dev Singh, Advocate
For Respondent	:	Mr. Ajay Kumar Mishra, Advocate

(Hon’ble Shri Justice Naresh Kumar Chandravanshi)

Order on Board

24.08.2026

1. The petitioner has preferred this writ petition under Article 226 of the Constitution of India, seeking following relief(s):-

10.1 That, this Hon’ble Court may kindly be pleased to quash/set-aside the impugned execution proceeding (Annexure-P/1) held by Executing Court in EXE/113/1991 arising out of case No.113A/91.

10.2 That, the Hon’ble Court may kindly be pleased to grant any other relief, as it may deem-fit and appropriate.

2. Learned counsel for the petitioner submits that the respondent/plaintiff was posted as Constable in Central Industrial Security Force (CISF) and he was terminated from the service vide Order dated 02.03.1983. Against the said order of termination, he preferred an appeal, which was also rejected. Thereafter, the respondent/plaintiff filed Civil Suit No. 113-A/1991, which was decreed in his favour vide judgment dated 13.09.1993 passed by the First Civil Judge, Class-II, Korba, the then Distt. Bilaspur (MP). The said judgment was subsequently set aside by the first appellate Court vide judgment dated 24.11.1995. Aggrieved thereby, the respondent/plaintiff preferred Second Appeal No. 365/1996 before this Court, which was partly allowed vide judgment dated 02.04.2013 (Annexure-P/3). While partly allowing the second appeal, this Court reduced the punishment and directed that the appellant/plaintiff/respondent be punished in the same manner as Ramraj, i.e., by placing him at the lowest stage in the time scale of pay with immediate effect, with cumulative effect, (minimum scale of Rs. 2,000/-). Except for the aforesaid relief, no other relief, including the relief of back wages, was granted to the respondent/plaintiff. Learned counsel further submits that, pursuant to the aforesaid judgment, vide order dated 24.09.2013 (Annexure-P/5), the pay of the respondent/plaintiff was reduced to the lowest stage of Rs. 210/- in the time scale of pay for a period of three years, with cumulative effect. Thereafter, his pay was refixed with effect from 01.01.1986 and was subsequently revised from time to time on account of changes in the applicable pay scales, until his retirement on 31.01.2013. His last pay was fixed on 01.07.2012 in the pay scale of Rs. 12,040 +4200/-. Learned counsel further submits that after retirement of the respondent/plaintiff, all his retiral dues have been paid to him except back wages, which were not granted by this Court vide Judgment dated 02.04.2013 passed in SA

No.365/1996. Despite the same, the respondent/plaintiff filed an execution application for payment of back wages, and the learned Executing Court, vide impugned order dated 12.01.2024, directed payment thereof. Learned counsel further submits that it is settled law that the Executing Court cannot go beyond the decree. Since no relief towards back wages was granted by this Court in the judgment passed in the second appeal, the learned Executing Court had no jurisdiction to grant such relief in execution proceedings. It is, therefore, submitted that the impugned order dated 12.01.2024 passed by the learned Executing Court suffers from perversity and illegality and is liable to be set aside/quashed. Hence, it is prayed that the impugned order be set aside.

3. Per contra, learned counsel for the respondent/plaintiff submits that, in the second appeal before this Court, the substantial question of law was confined to *whether the punishment of removal from service imposed upon the appellant for the charges levelled against him was proper*. It was not under consideration before this Court as to whether the back wages granted by the First Civil Judge, Class-II, Korba (the trial Court), were valid or not. Therefore, according to learned counsel, mere reduction of the punishment by this Court in the second appeal does not amount to refusal of the back wages granted by the trial Court. Consequently, the grant of back wages by the learned Executing Court vide order dated 24.01.2024 was justified and does not call for interference.

4. Heard learned counsel for the parties and perused the material placed on record.

5. Perusal of the copy of the judgment and decree dated 13.03.1993 passed by First Civil Judge Class-II, Korba in Civil Suit No.113-A/91 (*Ramkaran Sharma vs. Central Industrial Security Force*) would show that the

learned trial Court, after allowing the civil suit filed by the plaintiff, set aside the order of dismissal passed against the respondent/plaintiff and directed his reinstatement in service. The trial Court further directed that he be paid back wages and increments from 02.03.1983. It has been contended by learned counsel for both the parties that in FA No.7A/93, the learned first appellate Court reversed the judgment and decree dated 13.3.93 passed by the trial Court. Thereafter, the respondent/plaintiff preferred SA No.365/1996 before this Court. In the said second appeal, the following substantial question of law was framed by this Court:

“Whether the punishment of removal from service against the appellant for the charges leveled against him is proper?”

6. This Court vide judgment dated 02.04.2013, partly allowed the second appeal and passed following order in para 12 & 13, which reads thus:-

“12. Consequently, on the basis of decision on the substantial question of law, the appeal deserves to be allowed and is hereby allowed. Impugned judgment and decree of the lower appellate Court is set aside and the order of removal of the appellant from service is hereby quashed. Considering the act attributed to the present appellant, he is also awarded with the similar punishment as awarded to said Ramraj i.e. placing him to a lowest stage in the time scale of pay with immediate effect with cumulative (minimum scale of Rs.2,000/-). The parties shall bear own costs. Advocate’s fee as per schedule.

13. Decree be drawn-up accordingly.”

7. Perusal of the order dated 02.04.2013 (Annexure-P/3) passed by this Court in the second appeal shows that the first appellate Court had allowed the appeal and reversed the judgment and decree dated 13.03.1993 passed by the trial Court. Thereafter, while considering the aforesaid substantial

question of law, this Court considered the punishment imposed upon the respondent/plaintiff, including the consequential service benefits. Upon consideration of the matter, this Court modified the punishment imposed upon the respondent/plaintiff and reduced the penalty by awarding him the punishment similar to that imposed upon to one Ramraj, placing him at the lowest stage in the time scale of pay with immediate effect with cumulative (minimum scale of Rs.2,000/-). Prior to the aforesaid judgment, the respondent/plaintiff had retired from service on 31.01.2013 upon attaining the age of superannuation. Pursuant to the judgment passed by this Court, his service from the date of removal till the date of superannuation was regularized vide order dated 16.09.2013, and the punishment was modified from removal from service to placement at the lowest stage of the pay scale of Rs.210/- for a period of three years with cumulative effect. Annexure-R/1 further shows that, after fixation of the aforesaid pay, the pay of the respondent/plaintiff was revised from time to time, as reflected therein, and his last pay was fixed at Rs.12,040/- + 4200/- as on 01.07.2012. During the course of submissions, learned counsel for the petitioner also submitted that all retiral dues, including DCRG (Death-cum-Retirement Gratuity) and CVP (Commutated Value of Pension), along with the revisions thereof, had been paid, as reflected from Annexure-D/1, which was also within the knowledge of the respondent/plaintiff.

8. The grievance of the respondent/plaintiff in the execution application/proceedings is with regard to back wages from the date of dismissal, i.e. 02.03.1983 to 31.01.2013, the date of retirement. As has been observed above that while modifying the punishment, this Court had also reduced the penalty imposed against the respondent/plaintiff by placing him to the lowest stage in the time scale of pay scale of pay with immediate effect

with cumulative (minimum scale Rs.2,000/-). Perusal of the judgment and decree passed by this Court nowhere stipulates that the respondent/plaintiff would be entitled to back wages. Rather, he was subjected to the punishment of placement at the lowest stage in the time scale of pay. It is well settled that an Executing Court cannot go beyond the decree. Since the punishment imposed upon the respondent/plaintiff was specifically considered by this Court in the second appeal and the aforesaid modified penalty was imposed, this Court is not inclined to accept the contention of learned counsel for the respondent/plaintiff that this Court had upheld the grant of back wages made by the trial Court.

9. In the case of **Maurice W. Innis vs. Lily Kazrooni @ Lily Arif Shaikh (Special Leave Petition (C) No.8166/2022)**, the Hon'ble Supreme Court while considering the provisions of Section 47 of the Civil Procedure Code, observed in para 24 reads thus:-

24. A plain reading of the aforesaid provision makes it clear that the Executing Court is empowered to decide questions relating to execution, discharge or satisfaction of the decree and has no jurisdiction to go beyond the decree sought to be executed. In other words, it has to execute the decree as it is without changing the same. It is settled in law that the jurisdiction of Executing Court is limited to give effect to the decree as passed and not to assume the role of a trial court so as to substitute its own view in place of that expressed under the decree.”

10. It is also apposite to note that whatever decree had been granted in favour of the respondent/plaintiff by the trial Court was set aside by the first appellate Court. Thereafter, in the second appeal, the punishment/penalty of removal from service imposed upon the respondent/plaintiff was considered by this Court. The second appeal was partly allowed and the punishment was

modified, thereby granting monetary benefits to the respondent/plaintiff in terms of the modified punishment. However, no specific direction for payment of back wages was passed in his favour. Therefore, on this count also, this Court is not inclined to accept the contention advanced by learned counsel for the respondent/plaintiff.

11. In view of the foregoing discussion, it is evident that no back wages were granted by this Court in SA No.365/1996. Consequently, the Executing Court had neither the authority to explain the decree passed by this Court nor the jurisdiction to travel beyond the decree. The impugned order dated 12.01.2024 passed by the learned Executing Court is, therefore, contrary to the settled principles of law and is liable to be set aside.

12. Consequently, the impugned order dated 12.01.2024 passed by the learned Executing Court is hereby set aside/quashed.

13. Accordingly, the present petition is allowed to the extent indicated hereinabove.

14. Pending interim application(s), if any, stands disposed of. No order as to costs.

Sd/-
(Naresh Kumar Chandravanshi)
Judge