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**(2018) 09 CHH CK 0331**

**Chhattisgarh High Court**

**Case No:** Writ Petition (S) No. 6254 Of 2018

Kapil Krishna Mandal

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

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**Date of Decision:** Sept. 24, 2018

**Hon'ble Judges:** P. Sam Koshy, J

**Bench:** Single Bench

**Advocate:** Parag Kotecha, Arvind Dubey

**Final Decision:** Allowed/Disposed Of

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**Judgement**

P. Sam Koshy, J

1. The grievance of the petitioner is that the petitioner has not been paid retiral dues and has been withheld on account of his being involved in a

criminal case in a crime under the provisions of Prevention of Corruption Act.

2. Subsequently, the petitioner has been acquitted from the criminal court vide judgment dated 28.09.2017. Meanwhile, the petitioner had crossed the

age of superannuation and in the light of the acquittal of the petitioner in criminal case the petitioner would have to be firstly treated as in service for

the intervening period though he was placed under suspension and subsequently he would also be entitled for all the pensionary benefits and retiral

dues payable to him. The provisions of Fundamental Rules, 54-B has to be taken note of by the department while considering the claim of the

petitioner.

3. Under such circumstances, let the respondents No.2&3 take a decision on the claim of the petitioner in the light of provisions of Fundamental Rules

54-B particularly taking note of the judgment of acquittal passed in favour of the petitioner on 28.09.2017. It is further clarified that just because there is an appeal pending against the judgment of acquittal by itself would not be a disqualification for the petitioner for getting the pension and pensionary benefits. Releasing of such pensionary benefits would be subject to the outcome of the appeal against the acquittal.

4. Let his exercise be concluded by respondents No.2&3 within a period of 90 days from the date of receipt of copy of this order.

5. Consequently, the order dated 20.06.2018 being violative of provisions of FR 54-B is not sustainable. The same deserves to be and is accordingly set aside.

6. The petition accordingly stands allowed and disposed of.