

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 1314 OF 2022

Karunakar Barik

.....

Petitioner

Mr. S.K. Mishra, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

19.01.2022

Order No.
01

The matter is taken up through video conferencing mode.

2. The Petitioner in this writ petition seeks for a direction to Secretary to Government, School & Mass Education Department, Odisha, Bhubaneswar-Opposite Party No.1 to take appropriate steps for releasing the benefit of unutilized surrender leave and gratuity of 16 ½ months pay instead of 7½ months pay (pensionary benefits) to the Petitioner, who is a retired employees of a fully aided educational institutions. As such, it is contended that the Petitioner is entitled to be treated at par with their counter parts in Government Educational Institutions in view of Rule-9 of the Rules, 1974. It is also contended that taking into consideration the equal superannuation age of aforesaid two categories employees, the Petitioner should be granted the rest of the gratuity dues

as well as unutilized surrender leave dues by modifying the office order No.4848 dated 1st April, 2021 of the District Education Officer, Balasore and the resolution dated 22nd March, 2018 of School & Mass Education Department, Bhubaneswar vide Annexures-2, 3 and 4 respectively in view of the decisions of this Court in the case of ***Bidyadhar Bhuyan –vrs.-State of Odisha and others***, reported in 1995 (II) OLR 655, which was confirmed by the Hon’ble Supreme Court in SLP No.4090 of 1996, vide order dated 9th September, 1996.

3. In course of hearing, learned counsel for the Petitioner states that highlighting the grievances, the Petitioner has made a representation to the Commissioner-cum-Secretary to Government, School & Mass Education Department, Odisha, Bhubaneswar on 14th September, 2021 as at Annexure-5 and the same may be directed to be disposed of expeditiously taking into consideration the ratio in the case of ***Bidyadhar Bhuyan*** (supra) as well as the order of the Hon’ble Apex Court in SLP No.4090 of 1996.

4. Considering the limited grievance of the Petitioner, this Court without expressing any opinion on the merits of the case, disposes of the writ petition with a direction to the Secretary to Government, School & Mass Education Department Odisha, Bhubaneswar-Opposite Party No.1 to consider the representation filed by the Petitioner as at Annexure-5 and pass appropriate order in accordance with law within a period of four months from the date of production of

a certified copy of this order and communicate the same to the Petitioner forthwith.

5. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

Alok

DR. B.R. SARANGI, J.

