

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 22203 OF 2013

Prabir Kumar Brahma

***..... Petitioner
Mr. S. Behera, Advocate***

-versus-

State of Odisha & Others

***..... Opposite Parties
Mr. S.N. Pattnaik, AGA***

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
14.07.2022**

**Order No.
04.**

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. S. Behera, learned counsel for the petitioner and Mr. S.N. Pattnaik, learned Additional Government Advocate for the Opposite Parties.
3. Learned counsel for the State submits the parawise comments received from the Opposite Party No.2, the same is kept on record.
4. Learned counsel for the petitioner submits that the petitioner was working as a Junior Assistant which is borne in LFS Cadre and during his incumbency as such he was transferred from one NAC to the others and as a duty bound Government

Servant in obedience to such orders of transfer, he joined at each place of posting. Notwithstanding, the fact that his transfer orders repeatedly got modified because of the reluctance of the concerned municipality to accept his joining report.

5. Learned counsel for the State does not dispute such factual position.

6. It is the grievance of the petitioner that though in the meanwhile he has retired he has not been paid the retiral dues in spite of his representation to the Commissioner-cum-Secretary to Government Housing & Urban Development Department, Bhubaneswar (Opposite Party No.1) dtd. 07.06.2013 and dtd.19.01.2009.

7. The grievance of the petitioner as stated in the representations is extracted hereunder for convenience of ready reference;

“In the premises aforesaid, I would fervently pray you to be kind and good enough to kindly reconsider my prayer so as to sanction the period from 1.3.1998 to 31.10.2000 as extension of joining time for payment of joining time pay at Karanjia N.A.C. and for which act of your kindness, I shall remain ever grateful to you. ”

8. The learned counsel for the State on the basis of instruction received from the Director, Municipal Administration & Ex. Officio Addl. Secretary to Govt. (Opposite Party No.2) and relying on the very representation made by the petitioner states that on a bare perusal of the same it can be seen that the period for which the petitioner seeking regularize his service from 04.03.1998 to 31.10.2000 has already been treated as leave “due and admissible”.

9. He relies on the letter of the Government in the Housing and Urban Development Department Letter No.14929/HUD dtd. 26.4.2002. The relevant paragraph of the representation is quoted hereunder for ready reference;

“ Wherein it is indicated that the period from 4.3.1998 to 31.10.2000 is to be taken as leave due and admissible.”

9(A). Admittedly, the decision of the Government communicated in the letter of the HUD dtd. 26.04.2002 treating the period as “leave due and admissible” is unassailed. Hence, as rightly pointed out by the learned counsel for the State, it is no longer open for the petitioner to have a grievance regarding the said period. Hence his prayer to regularize the period treating the same as extension of joining time and consequential benefit does not merit consideration and the same accordingly stands disposed of.

10. Learned counsel for the petitioner submits that the petitioner has retired in the meanwhile but the authority without any rhyme and reason have not disbursed his pension, not revising pay as per ORSP Rules-2008 and have not disbursed his retiral dues such as DCRG, incremental and other differential arrear as per his entitlement.

11. Taking note of such submission, this Court directs the Opposite Parties 1 and 2 to release the retiral dues to the petitioner as per his entitlement after fixing the pay as per the O.R.S.P. Rules, 2008 within a period of three months from the date of receipt/production of the certified copy of this order, in the event, there is no other legal impediment.

12. Accordingly, the Writ Petition stands disposed of.

13. Urgent certified copy of this order be granted as per rule.

Balaram

*(V.Narasingh)
Judge*