

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.16417 of 2015

Sasmita Sahu

.....

Petitioner

Mr. B.C. Sahu, Advocate

Vs.

***Chairman, Indian Railway Board
and others***

.....

Opposite Parties

Mr. B.S. Rayguru, CGC (O.P.1)

Mr. T. Rath, Advocate

(O.Ps.2-6)

Mr. B. Dash, Adv.(O.P.7)

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

19.09.2022

Order No.

11

This matter is taken up through hybrid mode.

2. Heard Mr. B.C. Sahu-1, learned counsel for the petitioner; Mr. B. Dash, learned counsel appearing for opposite party no.7 and Mr. T. Rath, learned counsel appearing for opposite parties no.2 to 6.

3. The petitioner has filed this writ petition seeking to quash the order dated 09.07.2015 passed in O.A. No.260/00372/15 under Annexure-8 and the order dated 01.12.2014 passed by opposite party no.5 under Annexure-7, and further to issue direction to the opposite parties to pay the arrear dues, as enumerated in para-9 of the writ petition except 9(1) within a stipulated time.

4. Mr. B.C. Sahu-1, learned counsel for the petitioner contended that the petitioner joined on 05.06.2007 under the opposite party-organization as a Statistician on contractual basis

with the Headquarters of RITES at Gurgaon on the terms and conditions stipulated in Annexure-1. His appointment was initially valid for one year from 05.06.2007, i.e., the date of appointment to 04.06.2008, but subsequently, it was renewed on an annual basis from time to time. She tendered her resignation on 03.03.2011 on personal grounds giving a three month's statutory notice to the opposite-organization and the letter of resignation was accepted after due scrutiny on 05.04.2011 to be effective from 02.06.2011. Thereafter, she was relieved from the opposite party-organization on 02.06.2011 after production of "No Due Certificate" and also on completion of other required formalities. On 08.07.2011, she requested the opposite party-organization to release and pay the SSP amount along with other dues, but there was no response from the opposite parties. It is the case of the petitioner that she is entitled to get Rs.48,000/- which has been deducted from her salary at the rate of Rs.4000/- per month for one year towards SSP, Rs.1,72,293/- to be paid towards Employees Provident Fund, Rs.22,933/- towards family pension, Rs.23,040/- towards gratuity and Rs.13,876/- towards leave encashment. She has also claimed payment of interest on these admissible items. The petitioner, having not received any reply from the opposite parties, sent to the opposite parties a notice dated 07.11.2011 to clear up her outstanding dues within one month. Subsequently, on 24.04.2012, she ascertained from the website portal that her P.F. Account has been settled and therefore, made an application to the opposite parties asking for the details of the same, which were not furnished by the opposite parties. It is averred by the petitioner that the opposite parties have deposited Rs.1,50,185/- on 04.04.2012 and Rs.21,598/- on 17.04.2012 in her Bank Account,

but no intimation was made till date on which Account or head the payment was made. Finally, however, the petitioner had approached this Court by filing W.P.(C) No.2759/2012 and this Court disposed of the said writ petition on 31.08.2012 with the following direction:

“The petitioner being a civil servant under the Central Government undertaking, he should approach the Central Administrative Tribunal under Article 226 of the Constitution of India.

Accordingly, the writ petition is allowed to be withdrawn to file an application before the Central Administrative Tribunal.

The writ petition is accordingly disposed of”.

Hence, the applicant has filed this Original Before this Tribunal”.

5. As a consequence thereof, the petitioner approached the Tribunal by filing O.A. No.707 of 2012 seeking direction to the opposite parties to release the arrear dues as mentioned below:-

- (1) Rs.48,000/- deducted from her salary towards S.S.P.
- (2) Rs.1,72,293/- towards EPF as on 03/12.
- (3) Rs.22,933/- towards family pension as 1/12.
- (4) Rs.23,040/- towards Gratuity as on 1/12.
- (5) Rs.13,876/- towards leave encashment with interest.

6. The Tribunal, vide order dated 11.09.2013, disposed of the said O.A. directing the authority to release the SSP amount within 15 days and granting liberty to the petitioner to make a comprehensive representation to opposite party no.2-Managing Director, RITES and in such event, opposite party no.2 shall dispose of the same by passing a reasoned and speaking order after giving due opportunity to the petitioner to put forth her case and such disposal must be in strict conformity with the terms of the contract.

7. In compliance thereof, the petitioner filed comprehensive

representation dated 06.01.2014 before opposite party no.2, who disposed of the said representation vide order dated 05.02.2014. Being aggrieved, the petitioner approached the Tribunal by filing O.A. No.616 of 2014 and the Tribunal, vide order dated 16.10.2014, quashed the order dated 05.02.2014 and remanded the matter to opposite party no.2 to consider the representation preferred by the petitioner on 06.01.2014 strictly adhering to the order passed on 11.09.2013 in O.A. No.707 of 2012 within a period of 60 days. In compliance of the said order, opposite party no.2 communicated a speaking order to the petitioner on 01.12.2014.

8. Against the said order, the petitioner approached the Tribunal by filing O.A. No.260/00372 of 2015 and the Tribunal, vide order dated 09.07.2015, disposed of the said O.A. with an observation that since the opposite parties-RITES have still left the matter open for the applicant to put up her grievance, if any, the petitioner having not availed of this opportunity, could not have approached the Tribunal directly.

9. Mr. T. Rath, learned counsel appearing for opposite parties no.2 to 6 contended that the relief sought having been granted to the petitioner, nothing remains to be adjudicated in this writ petition. However, he contended that if any other grievance of the petitioner has been left out, it is open to the petitioner to pursue her remedy before the appropriate forum. Therefore, the writ petition has to be dismissed.

10. Mr. B. Dash, learned counsel appearing for opposite party no.7-Provident Fund Organization contended that whatever provident fund admissible to the petitioner has been released in favour of the petitioner and the same has been acknowledged by

her. Therefore, the relief sought for against opposite party no.7 having been granted to the petitioner, the writ petition has to be quashed.

11. In course of hearing, this Court called upon learned counsel for the petitioner to show what amount the petitioner has not received, as per relief sought in the Tribunal. He candidly admitted that the petitioner has received Rs.48,000/-, which was deducted from her salary towards SSP, Rs.1,50,185/- towards EPF out of Rs.1,72,293/-, Rs.11,989/- towards Gratuity out of Rs.23,040/-. But it is contended that Rs.22,108/- has not been paid towards EPF, which the petitioner is entitled to get. So far as leave encashment is concerned, the petitioner has got Rs.9,600/- and so far as family pension is concerned, the same has not been granted to the petitioner.

12. Since the petitioner has not completed ten years of service and only she has completed three years of service, as per provisions she is not entitled to get family pension. So far as balance amount of Rs.22,108/- towards EPF is concerned, the same has been adjusted towards income tax. Therefore, nothing is due to the petitioner towards EPF. So far as Gratuity part is concerned, it is contended that the petitioner has been paid Rs.11,989/-, which is available at Annexure-D to the counter affidavit filed by opposite parties no.2 to 6. Thereby, the relief sought for by the petitioner has been granted to her. However, if the petitioner claims more amount, it is open to her to approach the appropriate authority by filing a fresh representation. In the event, she files a fresh representation within two weeks from today, the authority shall consider and dispose of the same in accordance with law within a period of three months thereafter.

13. With the above observation and direction, the writ petition stands disposed of.

14. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Alok/Subhasmita

(G. SATAPATHY)
JUDGE

