

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 18440 of 2012

Malati Panda

.....

Petitioner

Mr. N.K. Singh, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

02.05.2022

Order No.

08.

This matter is taken up through hybrid mode.

2. Heard Mr. N.K. Singh, learned counsel for the petitioner and Mr. A.K. Mishra, learned Addl. Government Advocate for the State-opposite parties.

3. The petitioner, who was applicant in O.A. No. 229 of 2007, disposed of by the common order dated 24.06.2010 passed by the Orissa Administrative Tribunal, Bhubaneswar Bench, Bhubaneswar in O.A. No. 404 of 2000 and batch, rejecting the claim of the petitioner, has filed this writ petition challenging the said common order.

4. Mr. N.K. Singh, learned counsel for the petitioner contended that since the pensionary benefit has not been granted in favour of NMR employee, the petitioner has approached this Court by filing the present writ petition.

5. As it appears, in a similar case, i.e., WPC (OAC) No. 3494 of 2013 disposed of on 14.07.2021 (*Abhaya Charan Mohanty v. State of Odisha*), wherein the petitioner, who was a work charged employee had claimed the pensionary benefits after his retirement with retrospective effect, and this Court, relying upon the order of the apex Court in Civil Appeal No.21498 of 2012, dismissed the State Government's appeal and confirmed the order dated

19.12.2011 of this Court passed in W.P.(C) No. 5377 of 2010 in the case of one **Narusu Pradhan v. State of Odisha**, and allowed the writ petition by granting the pensionary benefits, as prayed for in that case. Similarly, in **Chandra Nandi v. State of Odisha**, 2014 (I) OLR 734, this Court had given direction to the authority to give notional regularization of service of the petitioner therein prior to his superannuation from service and accordingly calculated the petitioner's entitlement including the pensionary benefits.

5. So far as the case of **Narusu Pradhan** (supra) is concerned, which has been referred to by this Court in **Abhaya Charan Mohanty** (supra), the said **Narusu Pradhan** (supra) had filed O.A. No. 1189 (C) of 2006, praying for retiral benefits and in turn, the tribunal allowed the retiral pensionary benefits in his favour, vide order dated 11.06.2009. The said order was challenged by the State Government before this Court in W.P.(C) No. 5377 of 2010, which was dismissed vide order dated 19.12.2021, confirming the order passed by the tribunal. Challenging the order passed by this Court, though the State preferred Civil Appeal No.22498 of 2012 before the apex Court, but the same was also dismissed, vide order dated 07.01.2013, confirming the order passed by this Court, as well as the tribunal.

6. In such view of the matter, since the case of **Narusu Pradhan** (supra) is a case of work charged employee, who had worked for more than five years in work charged establishment, had been allowed to receive pensionary benefits by virtue of the order passed by the Odisha Administrative Tribunal, which was ultimately confirmed by this Court as well as the apex Court, the present petitioner having stood on the same footing, the order dated 24.06.2010 passed in O.A. No. 229 of 2007 vide common judgment dated 24.06.2010 passed in O.A. No. 404 of 2000 and batch, cannot

sustain in the eye of law and the same is liable to be quashed and is hereby quashed, so far it relates to the petitioner. The opposite parties are directed to extend the benefit in favour of the petitioner and grant all consequential benefits, in terms of the orders referred to above, within a period of four months from the date of production of certified copy of this order

7. Accordingly, the writ petition stands disposed of.
Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Sukanta

