IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 23628 of 2012

Principal Accountant General (A&E), Odisha, Bhubaneswawr. ….. ***Petitioner***

Mr. S.K. Das, Advocate

Vs.

Jagannath Lenka & Ors. ….. ***Opposite parties***

Mr. A.K. Mishra, AGA (O.Ps.2-4)

CORAM:
DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO

ORDER
15.03.2022

Order No. 6

This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Das, learned counsel for the petitioner and Mr. A.K. Mishra, learned Additional Government Advocate for opposite parties no.2 to 4.

3. Pursuant to notice issued on 17.12.2012, which was validly served on opposite party no.1, none has entered appearance for him at the time of call. Since it is an old case of the year 2012, this Court is not inclined to adjourn the matter any further.

4. The petitioner-Accountant General of Odisha has filed this writ petition seeking to quash the order dated 05.08.2010 passed by the Odisha Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.204 of 2009 vide Annexure-1, by which the petitioner has been directed to pay interest at the rate of 7% per annum on the arrear differential amount, i.e. between Rs.296/- and Rs.806/- per month for the period from 18.03.2005 to 14.01.2010; as

well as the order 31.08.2012 in Annexure-2, whereby R.A. No.30 of 2010 filed for review of the order dated 05.08.2010 has been dismissed.

5. Mr. S.K. Das, learned counsel for the petitioner contended that the case of opposite party no.1 revolves around the commuted value of pension. As such, though the tribunal, vide order dated 05.08.2010, has directed the petitioner to pay interest at the rate of 7% per annum on the arrear differential amount i.e. between Rs.296/- and Rs.806/- per month for the period from 18.03.2005 to 14.01.2010, but the petitioner is not liable to pay the said amount. Therefore, the petitioner filed review petition no.30 of 2010 for review of the order dated 05.08.2010, but the tribunal, proceeding on a wrong premises, dismissed the said review petition and directed the petitioner to pay interest on gratuity. Thereby, both the orders passed by the tribunal in O.A. No.204 of 2009 and Review Petition No.30 of 2010 are the subject matter of challenge in this writ petition.

6. Mr. A.K. Mishra, learned Additional Government Advocate for opposite parties no.2 to 4 contended that there are no laches on the part of the State Government to pay the interest, rather it is the petitioner, who has to pay the interest on the differential commuted value to opposite party no.1, as has been directed by the tribunal. Therefore, the order passed by the tribunal in O.A. No.2014 of 2009 is well justified.

7. Having heard learned counsel for the parties and after

going through the records, it appears that opposite party no.1 had commuted 1/3rd value of his pension, which was to be restored. Accordingly, that was restored and instruction was given, vide order dated 18.03.2005, towards sanction of Rs.296/- with temporary increase thereon per month with effect from 01.06.2000. But, opposite party no.1 claimed that he should get Rs.806/- with effect from that date. So, he refused to receive the same and filed an application for release of Rs.806/- per month from that date. When the said matter was pending before the petitioner's office, direction was issued to restore the consolidated commuted value of pension of Rs.806/- with effect from 01.06.2000 per month in place of Rs.296/-, vide letter dated 14.01.2010. Thereby, opposite party no.1 claims interest on delayed sanction of payment.

8. Counter affidavit was filed before the tribunal stating therein that the claim of opposite party no.1 to sanction commuted value of pension from 01.06.2000 was allowed and necessary order was passed. But, there was functional/procedural delay and, thereby, opposite party no.1 is not entitled to get interest.

9. There is no dispute with regard to wrong committed by the authority in calculating the legitimate claim of opposite party no.1. Therefore, opposite party no.1 submitted representation right from 2003 for restoration of the aforesaid amount. Due to wrong calculation of Accountant General Office, initially they sanctioned Rs.296/-, vide their order dated 18.03.2005, but they

corrected the same and again sanctioned Rs.806 from that date. Thereby, there was laches on the part of the petitioner in sanctioning the aforesaid amount, for which opposite party no.1 was debarred from getting his legitimate claim. Therefore, opposite party no.1 is entitled to get interest for the delayed period. Thus, the tribunal has rightly passed the order directing the petitioner to pay interest at the rate of 7% per annum on the arrear differential amount i.e. between Rs.296/- and Rs.806/- per month for the period from 18.03.2005 to 14.01.2010, which does not warrant interference of this Court. Thereby, this Court directs the petitioner to comply with the order passed by the tribunal within a period of three months. If it is found that the petitioner is not liable to pay interest, it is open to him to recover the said amount from the State Government.

10. With the above observation & direction, the writ petition stands disposed of.

……………………...
(**DR. B.R. SARANGI**)
JUDGE

……………………………
(**SAVITRI RATHO**)
JUDGE

Alok/Puspa