

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.3750 of 2022

Bhagyaban Jenamani

....

Petitioner

Mr.Sanjib Ku.Rath,Advocate

-versus-

State of Odisha and others

....

Opposite Parties

*Mr. S.Jena, Standing
Counsel, S & ME.*

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

09.02.2022

Order No.

01. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).

1. The present writ petition has been filed by the Petitioner, who is a retired approved Assistant Teacher in Debraj Bidyapitha Bamikhal, Bhubaneswar in the district of Khordha with a direction to the Opposite Party Nos.2 & 3 to release pension @ 50% of the last pay drawn in accordance with the Retirement Benefits Rule, 1981 pursuant to order passed by this Court in Sarat Chandra Parida-vrs.State of Odisha and others 2015 (II) ILR CUT 94 and the order dated 21.11.2016 passed by this Court in W.P.(C) No.15013 of 2016 (Sarat Chandra Pradhan-vrs.-State of Odisha and others) as well as in terms of Rule-3 of the Orissa Aided Educational Institutions' Employees Retirement Benefit Rules, 1981.

2. Learned counsel for the Petitioner submits that against the order passed by this Court in the case of *Sarat Chandra Pradhan (supra)*, the State had preferred an Appeal before the Hon'ble

Supreme Court of India bearing SLP No.34985 of 2017, which was subsequently dismissed on the ground of delay by order dated 5.12.2017. In such view of the matter, the order passed by this Court in ***Sarat Chandra Pradhan (Supra)*** has attained finality.

3. Mr. Jena, learned Standing Counsel for School & Mass Education Department submits that the Special Leave Petition has been dismissed only on the ground of limitation, therefore, it cannot be said that the Hon'ble Supreme Court has approved the decision rendered in ***Sarat Chandra Pradhan (supra)*** case.

4. Be that as it may, since the decision of this Court has attained finality and it is well settled principle of law that until and unless the said order is set aside by the Higher Forum, the decision rendered in ***Sarat Chandra Pradhan (supra)*** is binding on a coordinate Bench of this Court.

5. It is further submitted by learned counsel for the Petitioner that the Petitioner has submitted a representation before the Authority, i.e. the Director, Secondary Education, Odisha, Opposite Party No.2 dated 12.12.2021 (Annexure-4), the same is stated to have been pending for consideration by the authority as of now.

6. Having heard learned counsel for both the sides, this Court directs Opposite Party No.2 to consider and dispose of the representation of the Petitioner dated 12.12.2021 (Annexure-4) by passing a speaking and reasoned order keeping in view the law laid down by this Court as well as the concerned rules within a period of eight weeks from the date of production of a certified copy of this order by the Petitioner. The decision so taken on the representation

of the Petitioner be communicated to the Petitioner within a period of ten days thereafter.

7. With the above direction, the writ petition stands disposed of.
8. Issue urgent certified copy of this order as per Rule.

(A.K. Mohapatra)
Judge

RKS

