

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 7482 of 2012

Union of India & Others

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Petitioners

Mr. P.K. Parhi A.S.G.I.

Vs.

Nityananda Dharua

.....

Opposite party

Mr. D. Lenka, Adv.

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

08.04.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. P.K. Parhi, learned Asst. Solicitor General of India appearing for the Union of India-petitioners.

3. This Court, vide order dated 28.06.2012, issued notice to the opposite party by registered post with A.D. Though notice has been made sufficient, none appears for the opposite party at the time of call.

4. The petitioners have filed this writ petition assailing the order dated 19.01.2012 passed in O.A. No.17 of 2012, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack has quashed the order dated 18.10.2011, which was annexed as Annexure-A/6 to the said O.A., and directed the Union of India-petitioners to take into account such of the period which fell short of from the ED employment of the opposite party in order to grant him minimum pension, and such exercise was directed to be completed within a period of three months from the date of receipt of the order.

5. This Court, while entertaining the writ petition, has not passed

any interim order and the time granted by the tribunal has already elapsed long since. Be that as it may, it appears that earlier the opposite party had approached the tribunal by filing O.A. No. 681 of 2011 and, vide order dated 21.10.2011, the tribunal disposed of the said original application at the admission stage directing petitioner no.1 to consider and dispose of the representation, vide Annexure-A/4 to the said O.A., and pass a speaking and reasoned order as per rule. It is in that background, the petitioners issued order dated 18.10.2011 rejecting the prayer of opposite party that he is not entitled to pension on the ground that he has not rendered 10 years qualifying service. Being aggrieved by the said order, the opposite party filed O.A. No. 17 of 2012 before the tribunal and while considering the same, the tribunal found that the opposite party was appointed as Extra Departmental Delivery Agent of Dalgaon Branch Post Office with effect from 16.12.1967 and promoted to Group-D with effect from 08.05.2000 and retired on superannuation with effect from 28.02.2009. Though the opposite party rendered service as GDS for more than 32 years and 4 months and 8 years 9 months and 24 days of service as Group-D, which would be worked out to 41 years of service under the petitioners, but he was not granted minimum pension on the ground that he fell short of qualifying service of 10 years, which fact is absolutely misleading. The tribunal, having so found, placed reliance on the decision of C.A.T., Madras Bench in the case of ***M.R. Palanisamy Vrs. UOI & Others***, wherein it was held that the deficient period could be made good by taking into account the services rendered as GDS, which was upheld by the High Court of Madras in WP No. 45465/WPMP No. 66391 of 2007 and confirmed by the apex Court, vide order dated 17.10.2008 issued in the SLP filed by the Department of posts. Relying upon the

said decisions, the tribunal had allowed O.A. No. 310 of 2010, vide order dated 21.03.2011, and directed the petitioners to bring such of the shortfall period of service from the ED employment of the petitioner therein to count for the purpose of minimum period of ten years qualifying service and accordingly, sanction and release pension and pensionary benefits to the applicant therein. In terms of the order passed by it in O.A. No.310 of 2010, the tribunal disposed of the O.A. No.17 of 2012 filed by the opposite party with the direction indicated hereinbefore.

6. In view of such position, since the opposite party has completed more than 10 years of service under the petitioners, he is entitled to get pension, as admissible to him, in terms of the direction of the tribunal. Thereby, this Court is not inclined to interfere with the order 19.01.2012 passed by the tribunal in O.A. No.17 of 2012. In the meantime, the time limit granted by the tribunal to the petitioners to grant pension to the opposite party has already expired. Therefore, this Court grants three months time to the petitioners, which shall commence from today, to comply with the order passed by the tribunal.

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

(DR. B.R. SARANGI)
JUDGE

Alok/Sukanta

(SAVITRI RATHO)
JUDGE