IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 12927 of 2012

Balaram Jena	…..	***Petitioner***
		Mr. S.P. Mohanty, Adv.
	Vs.	
Union of India and others	…..	***Opposite parties***
		Mr. P.K. Parhi, ASGI along with Mr. Gochhayat, CGC

CORAM:

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

ORDER
22.04.2022

Order No. 04.

This matter is taken up through hybrid mode.

2. Heard Mr. S.P. Mohanty, learned counsel for the petitioner and Mr. P.K. Parhi, learned Asst. Solicitor General of India appearing along with Mr. Gochhayat, learned Central Government Counsel for the opposite parties-Union of India.

3. The petitioner, by way of this writ petition, assails the order dated 27.04.2012 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 590 of 2011 under Annexure-1 and seeks direction to the opposite parties to pay interest at the rate of 18% per annum for the delayed payment of his retirement dues within a stipulated time.

4. The petitioner, who was working as Group-A officer in the Postal Department retired on superannuation with effect from 31.12.2010 from the post of Manager, Postal Printing Press, Bhubaneswar. He submitted all his pension papers, much before his retirement, before the authority and, as such, no departmental proceeding was pending against him. But opposite party no.2, in spite of sanctioning final pension, sanctioned provisional pension in favour of the petitioner for a period of six months and subsequently it was extended from time to time. Earlier, the

petitioner was placed under suspension with effect from 08.12.2010 by the Chief Postmaster General, Odisha Circle, Bhubaneswar, who is not competent to suspend a Group-A officer of Postal Department and, as such, the same was ultimately revoked vide office order dated 22.12.2010. Though the petitioner was allowed provisional pension, but no final pension was granted in his favour and, as such, he has not been paid the commuted pension amount, DCRG, leave encashment benefits, CGEGIS and GPF, so also the salary for the period from 13.12.2010 to 31.12.2010, including the period of suspension, i.e., from 08.12.2010 to 22.12.2010. Therefore, the petitioner approached the Central Administrative Tribunal, Cuttack Bench, Cuttack by filing O.A. No. 590 of 2011 with a prayer to direct the opposite parties to make payment of all retirement benefits to him with 18% simple interest from 01.11.2011 till the date of payment of retirement benefits. The tribunal, after hearing both the parties, vide order dated 27.04.2011, directed as follows:-

> *"5. In view of the above, we direct the respondents to release all the retirement dues and grant regular pension instead of provisional pension, to which the applicant is entitled to under the Rules, forthwith, at any rate within a period of 45 days from the date of receipt of copy of this order. We also direct the respondents to pass appropriate orders as mandated under the Fundamental Rules as to how the period of suspension will be treated so as to regulate his pay and allowances for the relevant period. With the aforesaid observation and direction, this O.A. stands disposed of. No costs."*

5. Mr. S.P. Mohanty, learned counsel appearing for the petitioner contended that though the petitioner claimed interest on the delayed payment of his pensionary benefits, but the same was not paid to him. Therefore, the petitioner has approached this Court by filing the present writ petition claiming 18% interest per

annum, so far as delayed payment on the pensionary benefits, as admissible to the petitioner, is concerned.

6. Mr. P.K. Parhi, learned Asst. Solicitor General of India appearing along with Mr. Gochhayat, learned Central Government Counsel for the opposite parties-Union of India vehemently contended that since pending contemplation of disciplinary proceeding the petitioner was placed under suspension and, as such, the said order of suspension having been withdrawn subsequently for want of jurisdiction and no draft charge was framed in respect of the same, the tribunal directed the authority to pay pensionary benefits to the petitioner. Therefore, in compliance of the direction issued by the tribunal, the pensionary benefits has already been paid to him with effect from 07.06.2012, 11.09.2012, 13.06.2012 and 02.07.2012. But no interest has been paid for withholding such pensionary benefits for quite a long period.

7. Having heard learned counsel for the parties and after going through the records, this Court is the considered view that if the petitioner retired from service on 31.12.2010 and he submitted all his relevant documents much before the date of his retirement, it is incumbent upon the employer to calculate the pensionary benefits as admissible to the petitioner, and pay the same to the petitioner within a period two months from the date of his retirement, which is considered to be a reasonable period, in view of the judgment of this Court as well as the apex Court. But reason best known to the authority, they have withheld the amount for a quite long period and, as such, the same was disbursed to the petitioner only after the judgment was passed by the tribunal on 27.04.2012. It is contended by learned counsel for the petitioner that though the tribunal directed the authority to grant regular pension and all

other pensionary benefits to the petitioner, but with regard to grant of interest for delayed payment, as admissible to the petitioner, the tribunal has not passed any order.

8. In ***Dhruba Charan Panda v. State of Orissa***, 1999 (II) OLR 433, this Court also directed in paragraph-18 to the following effect:-

> *"18. We dispose of this application with a direction to the State Government to administratively instruct all the Heads of Departments and the concerned officials to ensure that different steps prescribed to be taken under the Rules are rigidly followed and any non-observance thereof is to be strictly viewed. If there is any delay in payment of pension the pensioner shall be entitled to 18% interest per annum for the period of delay and this interest shall be recovered from the person/persons responsible for the delay. While fixing the rate of interest, we have kept in view the minimum bank rate of interest charged for borrowing from bank. This aspect shall also be notified to all concerned. We are sure, if such stringent steps in addition to those, which the State Government may feel necessary to impose, are taken there shall be strict compliance of the requirement of law and in future the old retired persons shall not be required to move in the corridors of the Courts with tears in their eyes and a faint ray of hope of getting remedy early, and not posthumous. We record our appreciation for the able and fair assistance rendered by all learned counsel who appeared in the case for various parties. No costs."*

9. In view of the aforesaid facts and circumstances, the petitioner is entitled to get interest on delayed payment of pensionary dues at the rate of 9% per annum from the date of due till the actual payment is made. The opposite parties are directed to calculate and pay the same to the petitioner within a period of

four months from the date of production of certified copy of this order.

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

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Puspa