

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9828 of 2022

Debraj Dash

....

Petitioner

Mr. Sukanta Kumar Dalai, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. YSP Babu, AGA for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

20.04.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard Mr. Sukanta Kumar Dalai, learned counsel for the petitioner and Mr.YSP Babu, learned Additional Government Advocate for the State-opposite party Nos.1 to 4.
3. The petitioner in this writ petition prays for a direction to opposite party No.2-Principal Secretary, Finance Department, Government of Odisha, Bhubaneswar to clarify the instruction at penultimate paragraph of letter No.19420/F dated 01.07.2020 (Annexure-1) and also to quash the order dated 16.08.2021 (Annexure-2) issued by the Senior Accounts Officer of the office of the Accountant General (A&E), Odisha, Bhubaneswar (OP No.5). He further prays for a direction to consider the case of the petitioner in terms of the ratio in the case of *Biharilal Barik Vs. State of Odisha (W.P.(C) No.2831 of 2016 disposed of on 27.06.2016)* and to release the retiral dues of the petitioner accordingly.
4. Mr. Dalai, learned counsel for the petitioner submits that the petitioner, who joined the service as a Village Level Worker (VLW),

which was subsequently re-designated as Panchayat Executive Officer (PEO). In the meantime, he has already been superannuated from service, but due to laxity and indifferent attitude of the authorities the petitioner is running from pillar to posts to receive his pensionary benefits. Mr. Dalai, learned counsel further submits writ petition involving similar issue in W.P.(C) No.14755 of 2021 was disposed of on 22.04.2021 with the following order:-

“This matter is taken up through video conferencing mode.

Heard Mr. S.K. Dalai, learned counsel for the petitioner and Mr. S.K. Samal, learned Addl. Government Advocate for the State.

*Mr. S.K. Dalai, learned counsel for the petitioner contended that the petitioner has filed this writ petition seeking to quash the order dated 18.02.2020 under Annexure-3, by which the Senior Accounts Officer of the office of the Accountant General (A & E) Odisha, Bhubaneswar wrote to the Collector, Khurda returning the service book and pension papers of the petitioner for want of documents/ incomplete information and requested him to resubmit the same duly complied with. On receipt of such letter dated 18.02.2020, steps have been taken by the B.D.O., Bhubaneswar by resubmitting the pension papers of the petitioner in triplicate along with service book in original and other documents to the Collector and District Magistrate, Khordha, vide Annexure-4. In view of such position, the Collector may resubmit the pension papers and other necessary documents to the Accountant General (A & E) Odisha, Bhubaneswar for confirmation of the same, in view of the 3 judgment of this Court in **Biharilal Barik vs. State of Odisha** (W.P.(C) No. 2831 of 2016 disposed of dated 27.06.2016), which has been confirmed by the apex Court in Diary No. 20358 of 2017 decided on 23.08.2017 settling the position of law that the grade pay of the promotional post having hierarchy in the cadre is to be made available to the Govt. employee. The said principle is applicable to the petitioner on completion of 20 years of continuous service.*

Mr. S.K. Samal, learned Addl. Government Advocate contended that since steps have already been

taken by the BDO in providing pension paper and necessary documents, let the Collector be directed to forward the same to the Accounts Officer of the office of the Accountant General (A & E) Odisha, Bhubaneswar for taking necessary steps for payment of pension to the petitioner.

*Considering the contentions raised by learned counsel for the parties, this Court directs the Collector and District Magistrate, Khordha to resubmit the pension paper of the petitioner along with necessary documents to the Senior Accounts Officer of the office of the Accountant General (A & E) Odisha, Bhubaneswar enabling him to get his pensionary benefits. On receipt of the same, the Senior Accounts Officer of the office of the Accountant General (A & E) Odisha, Bhubaneswar, while considering the case of the petitioner, shall take into consideration the judgment of this Court in **Biharilal Barik (supra)**. The entire exercise shall be done within a period of four months from the date of communication of this order.*

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

As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 4 25th March, 2020 as modified by Court's Notice No. 4798 dated 15th April, 2021."

He, therefore, prays for a direction that the Collector, Khurda should take appropriate steps to resubmit the pension papers of the petitioner to the Senior Accounts Officer of the office of Accountant General (A&E), Odisha, Bhubaneswar to enable him to take necessary action for release of the pension and retiral dues of the petitioner at an early date.

5. Mr. YSP Babu, learned AGA on the other hand, submits that prayer made in the writ petition is confusing. The contents of Annexure-2 clearly discloses that the Collector, Khurda has already

submitted necessary documents to the office of Accountant General (A&E), Odisha, Bhubaneswar for release of pension to the petitioner, but the claim/case of the petitioner has been closed on a vague plea that necessary documents and information are not submitted to the office of Accountant General (A&E), Odisha, Bhubaneswar. As such, the petitioner may move the office of Accountant General (A&E), Odisha, Bhubaneswar for redressal of his grievance.

6. Taking into consideration the submissions of learned counsel for the parties and the ratio decided in the case of ***Biharilal Barik (supra)*** as well as direction of this Court in ***W.P.(C) No.14755 of 2021 disposed of on 22.04.2021***, this Court, without expressing any opinion on the merits of the case of the petitioner, disposes of the writ petition with a direction to opposite party No.4-Collector, Khurda to resubmit pension papers of the petitioner along with necessary documents and information as expeditiously as possible, preferably within a period of six weeks from the date of production of an authenticated copy of this order to the office of Accountant General (A&E), Odisha, Bhubaneswar (OP No.5), who shall do well to take a decision on the same by passing a reasoned and speaking order within a period two months from the date of resubmission of pension papers of the petitioner by the Collector, Khurda and communicate the same to the petitioner.

7. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge