IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 7941 of 2018

State of Odisha and others	…..	***Petitioners***
		Mr. A.K. Mishra, AGA
	Vs.	
Duari Sahoo	…..	***Opposite Party***

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

ORDER
29.04.2022

Order No. 04.

This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Mishra, learned Addl. Government Advocate for the State-petitioners.

3. The State-petitioners have filed this writ petition challenging the order dated 05.10.2016 passed in O.A. No. 2590 of 2016 under Annexure-2, by which the Odisha Administrative Tribunal by holding that the opposite party is entitled to pension and other ancillary benefits at minimum eligible rates having been regularized with effect from 2009 and having served for 31 years as NMR, and that the period failing short of the minimum period required for eligibility for pension shall be made up by counting the required period (shortfall period only) of service rendered as NMR before regularization, directed the petitioners to settle his retiral claim accordingly within a period of two months.

4. Mr. A.K. Mishra, learned Addl. Government Advocate for the State-petitioners contended that since the pensionary benefit has been directed to pay the NMR employee, the State-petitioners have approached this Court by filing the present writ petition.

5. As it appears, in a similar case, i.e., WPC (OAC) No. 3494 of 2013 disposed of on 14.07.2021 (***Abhaya Charan Mohanty v. State of Odisha***), wherein the petitioner, who was a work charged

employee had claimed the pensionary benefits after his retirement with retrospective effect, and this Court, relying upon the order of the apex Court in Civil Appeal No.21498 of 2012, dismissed the State Government's appeal and confirmed the order dated 19.12.2011 of this Court passed in W.P.(C) No. 5377 of 2010 in the case of one ***Narusu Pradhan v. State of Odisha***, and allowed the writ petition by granting the pensionary benefits, as prayed for in that case. Similarly, in ***Chandra Nandi v. State of Odisha,*** 2014 (I) OLR 734, this Court had given direction to the authority to give notional regularization of service of the petitioner therein prior to his superannuation from service and accordingly calculated the petitioner's entitlement including the pensionary benefits.

5. So far as the case of ***Narusu Pradhan*** (supra) is concerned, which has been referred to by this Court in ***Abhaya Charan Mohanty*** (supra), the said ***Narusu Pradhan*** (supra) had filed O.A. No. 1189 (C) of 2006, praying for retiral benefits and in turn, the tribunal allowed the retiral pensionary benefits in his favour, vide order dated 11.06.2009. The said order was challenged by the State Government before this Court in W.P.(C) No. 5377 of 2010, which was dismissed vide order dated 19.12.2021, confirming the order passed by the tribunal. Challenging the order passed by this Court, though the State preferred Civil Appeal No.22498 of 2012 before the apex Court, but the same was also dismissed, vide order dated 07.01.2013, confirming the order passed by this Court, as well as the tribunal.

6. In such view of the matter, since the case of ***Narusu Pradhan*** (supra) is a case of work charged employee, who had worked for more than five years in work charged establishment had been allowed to receive pensionary benefits by virtue of the order passed by the Odisha Administrative Tribunal, which was ultimately

confirmed by this Court as well as the apex Court, the present opposite party having stood on the same footing, the order dated 05.10.2016 passed by the Odisha Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.2590 (C) of 2016 is made confirmed, as he is entitled to the pensionary benefits in terms of the orders, referred to above.

7. Accordingly, the writ petition stands dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Puspa

HIGH COURT
सत्यमेव जयते
ORISSA