

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 1714 of 2017

Dhirendra Kumar Behera

.....

Petitioner

Mr. A.R. Mishra, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

26.07.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Mishra, learned Counsel for the Petitioner and Mr. A.K. Mishra, learned Additional Government Advocate.

3. The Petitioner has filed this Writ Petition seeking to quash the Order dated 10.08.2016 passed in O.A. No.1512(C) of 1997 and the Order dated 17.02.2016 passed in C.P. No.136(C) of 2006 in Annexure-9 and the Order dated 24.09.2013 passed in C.P. No.136 (C) of 2006 under Annexure-7 by the Odisha Administrative Tribunal, Cuttack Bench, Cuttack and further to issue direction to the Opposite Parties to pay the dues as per the statement in Annexure-17 along with interest.

4. Due to non-payment of financial benefits, which the Petitioner is entitled to get after his retirement, he approached the Tribunal by filing O.A. No. 1512(C) of 1997. After due adjudication, the Tribunal disposed of the said O.A. vide order dated 23.09.1999, which states as follows:

“Keeping this principle in mind, I direct the respondents to pay all his retiral dues within two months from the date of receipt of a copy of this order. The pension, gratuity, commuted value of pension etc. will carry an interest at the rate of 18% per annum two months after the date of retirement till they were paid either on provisional basis or otherwise.”

5. Against the said Order, the State filed OJC No.5657 of 2001 and this Court disposed of the said Writ Petition vide order dated 07.12.2005 confirming the order dated 23.09.1999 passed by the Tribunal. Due to non-compliance of the said order, the Petitioner filed C.P. No.136 (C) of 2006 and the Tribunal issued notice to the Opposite Parties and from time to time passed order for compliance of the order. In response to same, Opposite Parties complied with the said Order and finally, the Tribunal, vide order dated 24.09.2013 disposed of the said C.P. with the following Order:

“After hearing all parties, it is directed that interest be recalculated by the learned counsel for the alleged contemnors and the applicant and a representation of the applicant sitting together, within a week of receipt of these orders and in case there has been any over payment to the applicant, the applicant shall deposit such additional amount received by him along with interest prescribed by the S.B.I., on savings bank accounts in the Govt. Treasury within a period of one month from the date of receipt of these orders and file receipt thereof in this Tribunal. In case it is found that further payment is due to the applicant, the alleged contemnors may also disburse such amount to the applicant within a period of one month from the date of receipt of these orders”.

6. In compliance of the direction issued in C.P. No.136(C) of 2006, the benefit has already been extended to the Petitioner. But the Petitioner filed Review Petition against the Order dated 23.09.1999 passed by the Tribunal in O.A. No.1512(C) of 1997

and the same was also dismissed vide order dated 17.02.2016. Therefore, the only remedy available to the Opposite Parties is to comply with the same and, as such, in compliance of the same, the contempt proceeding, initiated against the Opposite Parties, was dropped. But the Petitioner disputed the fact that on the basis of calculation, payment, which has been made, is not in full compliance of the Order passed by the Tribunal. Therefore, the Tribunal also passed an order permitting the Petitioner to reconcile the payment made by the Opposite Parties in presence of Deputy Registrar of the Tribunal. In spite of that, the Petitioner did not cooperate, as a consequence thereof, the contempt proceeding was dropped. Now, the Petitioner claims for more amount and whether the Petitioner is entitled to get more amount, pursuant to Order passed by the Tribunal, that itself is a disputed question of fact. But the said disputed question of fact cannot be resolved in exercise of power under Article-226 of the Constitution of India.

7. In view of such position, this Court is not inclined to entertain this Writ Petition. However, if the Petitioner claims for more financial benefits than he has received, it is open to him to approach the appropriate forum ventilating his grievances.

8. With the above observation, the Writ Petition stands disposed of.

9. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Alok/Banita

(S.K. MISHRA)
JUDGE