

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 284 of 2019

Manoranjan Mishra

....

Appellant

Mr. Y. Das, Senior Advocate
along with Mr. Sidheswar Mallik , Advocate
-versus-

State of Odisha and Others

....

Respondents

Mr. Manoj Kumar Khuntia, Addl. Govt. Advocate
Mr. Satyabrata Mohanty, Advocate (R/2)

W.A. No. 306 of 2019

***Chief Executive Officer, Orissa
Computer Application Centre (OCAC),
Bhubaneswar***

....

Appellant

Mr. Asok Mohanty, Senior Advocate
along with Mr. S. S. Padhy, Advocate
-versus-

Manoranjan Mishra and Others

....

Respondents

Mr. Manoj Kumar Khuntia, Addl. Govt. Advocate
Mr. S. Mallik, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN**

ORDER

24.11.2022

Order No.

06. 1. There are two appeals filed against the order dated 19th June, 2019 passed by the learned Single Judge allowing review petition No. 139 of 2017 filed by Shri Manoranjan Mishra (the Appellant in W.A. No. 284 of 2019) against Orissa Computer Application Centre (OCAC), the Appellant in W.A. No. 306 of 2019, which admittedly is a registered society and receives grant-in-aid from Government of Odisha.

2. The bone of contention before the learned Single Judge was regarding the retirement age of employees of OCAC. While Shri Mishra was contending that the retirement age should be 60 years, at par with all other State Government servants, OCAC was resisting the plea on the ground that it was a registered society and an autonomous body governed by its own set of regulations.

3. Initially, by the judgment dated 15th May, 2017, the learned Single Judge dismissed W.P.(C) No. 14962 of 2016 filed by Shri Mishra. However, on gathering more facts, Shri Mishra filed the aforementioned RVWPET No.139 of 2017, in which he was able to demonstrate that in all other public sector undertakings (PSUs) of the State Government the retirement age has already been increased to 60 years. In the impugned order dated 19th June, 2019 allowing Shri Mishra's RVWPET No. 139 of 2017, the learned Single Judge noted that the employees of the Cuttack Development Authority, and other PSUs and Public Sector Enterprises had been extended the benefit of enhanced age of superannuation from 58 to 60 years. The learned Single Judge was of the view that OCAC being a State instrumentality has to likewise extend the same benefit to its employees. On this basis, the learned Single Judge has by the impugned order reviewed the earlier order dated 15th May, 2017 and in the operative portion, it has been held that if Shri Mishra had in the meantime attained the age of 60 years "he shall not be entitled to arrears of salary. However, he shall be deemed to be continuing in service upto the age of 60 years and, accordingly, his pay shall fixed by the OCAC and refix the benefits like pension and gratuity etc."

4. The situation that has changed in the meanwhile is that all the employees of OCAC are at present retiring at the age of 60 years and not 58 years. The grievance of Shri Mishra is against the impugned judgment is that he has been denied arrears of salary for the period between his actual date of retirement at 58 years and the enhanced age of retirement of 60 years.

5. As far as OCAC is concerned, it is apprehended that others like Shri Mishra, who may have retired at 58 years, would now start claiming re-fixation of their pension, gratuity and recalculation of the retirement benefits on the basis of the impugned judgment of the learned Single Judge.

6. As far as Shri Mishra's plea is concerned, it is untenable for the simple reason that he did not actually work for the period for which he is claiming arrears of salary. The Court is, therefore, not inclined to entertain his plea.

7. As far as the apprehension expressed by the OCAC in its appeal is concerned, the Court clarifies that since only Shri Mishra came to the Court with a writ petition, the impugned judgment insofar as recalculation of his pension, gratuity and other retirement benefits would be peculiar to the facts of his case and would not *ipso facto* result in OCAC having to extend the same benefit to others who may be similarly placed. If such an employee now comes forward to make any similar claim, it will have to be decided on the individual facts of such case.

8. With the above clarification, the Court is not inclined to entertain either of the writ appeals and they are dismissed as such.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

AKPradhan

