

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15600 of 2020

Ramakanta Mohanty

....

Petitioner

Mr. A.K. Mohanty, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Y.S.P. Babu, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

29.06.2022

Order No.

03.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the petitioner as well as learned counsel for the State. Perused the record.
3. The present writ petition has been filed by the petitioner with the following prayers:

“Petitioner therefore prays that this Hon’ble Court be kind enough to admit the Writ Petition, issue notices to Opp.Parties for filing show-cause as to why petitioner has not been paid his monthly pension though he retired from service with effect from 28.2.2019 and if the Opp.parties fails to file show-cause or insufficient causes then this Hon’ble Court after hearing the counsels for parties be pleased to issue a writ in the nature of mandamus and direct to Opp.Party No.2 & 3 to release the monthly pension in favour of the petitioner from the date of his retirement, or pass any other order or orders as this Hon’ble Court deem fit and proper.”

4. It is submitted by learned counsel for the petitioner that the petitioner was initially appointed as NMR/DLR in Cuttack Municipal

Corporation on 22.12.1983. After working several years of NMR/DLR, thereafter vide Officer Order dated 25.02.2017 absorbed in the regular post of Zamadar. Pursuant to the decision of the Government, policy decision of the Government vide letter dated 31.07.2014 under Annexure-1 series and the petitioner was regularized by Cuttack Municipal Corporation existing scale of pay Rs.4440 to Rs.14,180/- with grade pay Rs.1400/- and other allowances from time to time. While the matter stood thus, the petitioner retired from service on attaining the age of superannuation w.e.f. 28.02.2019. Thereafter the petitioner has approached before the Opposite Parties for pensionary benefits.

5. It is further submitted by learned counsel for the petitioner that despite working such long period in Cuttack Municipal Corporation, the petitioner was regularized and he has not been given pensionary benefits as due and admissible to the petitioner. In the said context, the petitioner had submitted representation dated 10.01.2018 before Director, Municipal Administration (Opposite Party No.2) as well as Commissioner-cum-Secretary, Housing and Urban Development Department, Bhubaneswar-Opposite Party No.1 the same is still pending before the said Opposite party and the said Opposite Party has not taken any decision as of now.

6. Further learned counsel for the petitioner submits in support of his contentions relied upon a judgment of this Court wherein the identical issues were involved i.e. in the matter of ***Bharat Chandra Bahula @ Bhol Vrs. State of Odisha and others*** (W.P.(C) No.17659 of 2018) disposed of vide order dated 22.07.2019. This Court while disposing of the said writ petition categorically held as follows:-

“In view of the facts and circumstances, this Court directs that the short fall period of the petitioner entitling

him to get the minimum pension should be taken into consideration from the service rendered as DLR/NMR/Adhoc towards regular and qualifying service. In view of such position, the petitioner's service rendered as DLR/NMR/Adhoc be counted for the purpose of grant of minimum pension in accordance with statute."

7. Therefore, it is submitted by learned counsel for the petitioner that the petitioner is eligible to get pensionary benefits as has been decided by this Court in the aforementioned case ***Bharat Chandra Bahula @ Bhol*** (supra).

8. Considering the grievance of the petitioner and taking into limited nature of grievance involved in the present writ petition and further keeping in view larger interest of justice, this Court disposes of the writ petition at the stage of admission with a direction to the petitioner to file a fresh representation highlighting his grievances along with copies of the relevant documents in support of his claim before the Director, Municipal Administration (Opposite Party No.3) within a period of two weeks from today. In the event such a representation is filed by the petitioner within the aforesaid period, the same shall be considered and disposed of by passing a speaking and reasoned order within a period of two months from the date of filing of fresh representation. Any decision taken on the same shall be communicated to the petitioner within a period of two week thereafter.

9. With the aforesaid observation/direction, the writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

