

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 12075 of 2019

Sarat Kumar Nayak

....

Petitioner

Mr. Soumyajyoti Biswal, Advocate

-versus-

***Odisha State Financial
Corporation (OSFC) and
another***

....

Opp. Parties

*Mr. C. Ananda Rao, Senior Counsel
with Mr. S. K. Behera, Advocate*

CORAM:

JUSTICE SANJAY KUMAR MISHRA

ORDER

26.09.2022

Order No.

08. 1. This matter is taken up through hybrid mode.

2. In the present Writ Petition, the Petitioner has prayed to direct the Opposite Party No. 1-Corporation to consider his Representations dated 16.08.2018 and 27.09.2018, as at Annexures-5 & 6 respectively, in terms of Section 4(3) of the Payment of Gratuity Act, 1972, shortly, P. G. Act, 1972 on the plea that he is entitled for enhanced amount of Gratuity of ₹20 lakhs as per the amended provision under the P. G. Act, 1972 with further prayer to declare the letter dated

18.04.2019 issued by the Opposite Party No. 1 and letter dated 21.05.2019 issued by the Opposite Party No. 2 to be illegal and arbitrary.

3. On being noticed, the Opposite Party No. 1-Corporation has filed the Counter Affidavit admitting therein as to adoption of P. G. Act, 1972 by the Corporation.

4. Admittedly, vide the Orissa Gazettee, Extraordinary, published by Authority dated 7th July 2010, in exercise of power conferred under Section 48(3) of the State Financial Corporation (Amendment) Act, 2000, the Board of Directors of the Orissa State Financial Corporation, in consultation with Small Industries Development Bank of India and previous sanction of State Government, have repealed the O.S.F.C. (Payment of Gratuity to Employees) Regulations, 1968 and adopted the "Payment of Gratuity Act, 1972" for the employees of the Corporation w.e.f. 01.01.2010, as at Annexure-1.

5. The case of the Petitioner is that though he has been paid ₹10 lakhs towards Gratuity by the Corporation, since the Central Government has further enhanced the maximum ceiling limit of the Gratuity to ₹20 lakhs vide the Gazette of India, Extraordinary, published on 29th March, 2018 and he was superannuated on

30.04.2018, without applying the amended provision, the Opposite Party No.1-Corporation paid him Gratuity as per the preamended provision, restricting the maximum ceiling limit of Gratuity to ₹10 lakhs.

6. The Petitioner has not indicated in the Writ Petition as to the wages last drawn by him as on 30.04.2018, on which date he was superannuated from service, so also the total period of service rendered by him in the Opposite Party No. 1-Corporation and the amount he is allegedly entitled to over and above ₹10 lakhs by making necessary calculation to the said effect in terms of the P.G. Act, 1972.

7. Admittedly, there is a specific provision under Section 7 of the P. G. Act, 1972 as to the mode of calculation and recovery of the Gratuity in case the Employer fails to pay or makes short payment of Gratuity.

8. In view of the alternative remedy available to the Petitioner, so also admitted fact as to applicability of the Payment of Gratuity Act, 1972 to the Opposite Party No. 1-Corporation, this Court is not inclined to entertain the present Writ Petition.

9. As the matter is pending since 2019 and no plea has been taken in the Counter filed by the Corporation as

to non-maintainability of the Writ Petition on the ground of availability of alternative remedy, on prayer of the learned Counsel for the Petitioner, this Court is inclined to grant liberty to the Petitioner to approach the Controlling Authority under the P. G. Act, 1972 for redressal of his grievances, if any, within four weeks hence, if he is so advised.

10. Accordingly, the Writ Petition stands disposed of with liberty, as prayed for.

11. Urgent Certified Copy of this Order be granted on proper application.

(S. K. MISHRA)
JUDGE

AKPradhan

