

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.425 of 2017

Secretary, Odisha State Co-operative Appellant
Union, Bhubaneswar

M/s. M. M. pattnayak and associates, Advocates
-versus-

Md. Reyazul Karin and others Respondents

Dr. J. K. Lenka, Advocate for Respondent No.1

CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN

Order No.

ORDER
15.11.2022

Misc. Case No.666 of 2017

11. 1. There is a delay of 105 days in filing the writ appeal. The explanation offered in the above application in para 2 reads as under:

“2. That, the petitioner could not able to file the aforesaid writ appeal due to want of relevant documents inasmuch as the predecessor of this present petitioner in the meantime has been retired on 30.09.2017 on attaining the age of superannuation and as such unable to receive the detail charges of the officer of the Deputy Secretary and Secretary which took much more time.”

2. The Court is unable to be satisfied about the reasonableness of the above explanation. It does not appear to be valid or bona fide. Consequently, the Court is not inclined to condone the delay in filing the appeal. The application is dismissed.

W.A. No.425 of 2017

3. Nevertheless, the appeal has been examined on merits.

4. The prayer in the writ petition filed by Respondent No.1 before the learned Single Judge was for a direction to the present Appellant to release payments of full salary and allowances to the Respondent in the revised scale of pay from November, 2000 till the date of filing the writ petition less a period of seven months between April and October, 2000. The challenge was also to an order dated 28th February, 2004 issued by the present Appellant compulsorily retiring Respondent No.1 from service and to give him all consequential benefits.

5. It appears that none appeared on behalf of the present Appellant before the learned Single Judge despite a pass over. As regards the order of compulsory retirement, learned Single Judge noted that while rendering service as District Cooperative Instructor at Bhawanipatna, Respondent No.1 had submitted returns and reports. Without considering those reports and without complying with the principles of natural justice, the order of compulsory retirement had been passed. In that view of the matter, the said order of compulsory retirement was set aside by the learned Single Judge.

6. As regards rendering of service, learned Single Judge found that it was an admitted position that Respondent No.1 was on duty from 24th February, 2000 till 24th August, 2004 was evidenced by the documents and letters issued by the Secretary, Bhawanipatna Central Cooperative Bank. As far as earlier period was concerned,

an order had been passed on 25th October, 2002 for payment of the withheld amounts to Respondent No.1, which had somehow not been complied with by the Appellant.

7. In the above circumstances, learned Single Judge allowed the prayers in the writ petition.

8. Having heard learned counsel for the Appellant as well as learned counsel for Respondent No.1 and having perused the impugned order of the learned Single Judge, the Court is unable to find any legal error having been committed by the learned Single Judge in granting the reliefs prayed for by the Respondent. Factually, there was material before the learned Single Judge to substantiate the plea of the Respondent as regards the order of compulsory retirement being in violation of the principles of natural justice. Also, there was no justification on part of the Appellant in not releasing payments for the period of service rendered by the Respondent as prayed for on him.

9. The Court is therefore unable to find any reason to interfere with the impugned order of the learned single Judge even on merits.

10. The appeal is accordingly dismissed both on the ground of limitation as well as on merits.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge