

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC(OAC) No. 191 of 2006

Baboo Bhukta

....

Petitioner

Mr.L. Pradhan, Adv.

-versus-

State of Odisha & Ors.

....

Opp. Parties

Mr. H.K. Panigrahi, SAT

CORAM:

DR. JUSTICE S.K. PANIGRAHI

ORDER

19.10.2022

Order
No.

04.

1.This matter is taken up through hybrid mode.

2. Heard.

3. In this writ petition, the petitioner challenges the recovery of Rs. 39,392/- which has already been deducted from the arrear salary of the present petitioner.

4. Learned counsel for the petitioner submits that though the petitioner's date of birth is 08.04.1946 whereas some mistakes in the gradation list was occurred indicating making the date of birth as 04.08.1946. Accordingly, the petitioner was allowed to retire on 31.08.2004. Because of such mistake, the petitioner had to work for four months extra beyond the date of superannuation. The petitioner worked for four months extra because of some mistake

apparent on the record and the said date of birth is also reflected in the Letter issued by the Director of Employment, Orissa, Bhubaneswar vide letter dated 17.08.2004. Since the petitioner has worked for four months extra, he was paid full salary as applicable to the post he was holding. However, the Director of Employment, Orissa, Bhubaneswar vide letter dated 20.12.2005 issued a letter seeking recovery of Rs. 39,392/- stating that the said amount was excess payment made to the present petitioner. Learned counsel for the petitioner further submits that, since the petitioner has worked for four months extra because of the mistake regarding mistaken entry of his date of birth in the gradation list and he has received the salary, hence demand for recovery after his retirement is illegal.

6. Learned counsel for the State submits that such prayer for recovery has not been made in the Writ Petition hence it cannot be allowed. He further submits that since the recovery has already been effected, at this stage the prayer of petitioner cannot be allowed.

7. Heard the learned counsel for the petitioner and learned counsel for the State, on perusal of the above-mentioned pleadings this court is of the view that, since the petitioner has worked for four months extra due to

the fault of the Director of Employment, Orissa, he received the salary for his work. The petitioner has not siphoned of or misappropriated the same which should be recovered. Since he has worked for the said period and legitimately got his salary dues for the work, the said amount ought not to have been recovered. However, in the present case the said amount has already been recovered from the petitioner. In such view of the matter, Opposite Party Nos. 1 & 2 are directed to refund the amount deducted from the petitioner's account within a period of two months from the date of presentation of this order.

8. Accordingly, this Writ Petition stands disposed of.

(Dr. S.K. Panigrahi)
Judge

SD