

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 1984 of 2007

Paramananda Hans

.....

Petitioner

Mr.U.K. Samal, Advocate

Vs.

Collector, Balangir and others

.....

Opposite parties

Mr. H.K. Panigrahi, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

04.01.2022

Order No.

01

This matter is taken up by hybrid mode.

2. Heard Mr. U.K. Samal, learned counsel for the petitioner and Mr. H.K. Panigrahi, learned Additional Standing Counsel.

3. The petitioner files this writ petition seeking for quashing of the order dated 06.06.2007 in Annexure-8 by which the pension paper and service book are returned in original and provisional pension was sanctioned and paid at the level of the authority as per sub-Rule (4) of Rule 66 of OCS (Pension) Rules, 1992.

4. Mr. U.K. Samal, learned counsel for the petitioner contended that in view of the counter affidavit filed by the opposite parties 1 and 2, it has been specifically mentioned that the A.G., Orissa has sanctioned the pension and forwarded the PPO in favour of the petitioner keeping the balance of D.C.R.G of Rs.55,301/- pending for payment on receipt of final no due certificate. It is further contended that

the petitioner has received all the benefits except Rs.55,301/-. Thereby it is contended that pending contemplation of initiation of disciplinary proceeding the amount has been withheld by the authority. As per the provisions of Section-7 (c) of the Pension Rules, the proceeding cannot be initiated after four years of his retirement. In that view of the matter the amount of Rs. 55,301/- which has been withheld, the same should be released in favour of the petitioner.

5. Mr. H.K. Panigrahi, learned Additional Standing Counsel for the State contended that at this point of time he has no instruction except the averments made in the counter affidavit and as such, whether the proceeding has been initiated against the petitioner or not is not within his knowledge.

6. Considering the contentions raised by learned counsel for the parties and after going through records, as it appears pending contemplation of disciplinary proceeding to be initiated against the petitioner, the amount of Rs.55,301/- is kept pending for receipt of final no due certificate. But in view of provisions contained in Section-7 (c) of the Orissa Pension Rules, 1992, four years after retirement, the proceeding cannot be initiated against the petitioner. Thereby withholding of the amount of Rs.55,301/- as mentioned in paragraph-3 of the counter affidavit filed by the opposite party no.1 and 2 cannot have any justification.

7. In that view of the matter, let the petitioner make an application before the authority indicating the fact that since the proceeding has not been initiated against him, the amount

should be released. If such application is filed within a period of fifteen days, the authority shall consider and pass appropriate order in accordance with law, as expeditiously as possible, preferably within a period of three months from the date of communication of the order.

8. With the above observation and direction, the writ petition stands disposed of.

Arun

(DR. B.R. SARANGI)
JUDGE

