

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19549 of 2022

Baikuntha Bihari Dash Petitioner

-versus-

State of Odisha & Others Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
19.10.2022**

Order No

03. 1. This matter is taken up through Hybrid Mode.

2. Heard Ms. S. Dash, learned counsel appearing for the Petitioner and Mr. Ch. S. Mishra, learned Addl. Government Advocate for the State-Opposite Parties.

3. The present Writ Petition has been filed by the Petitioner challenging the order dated 24.06.2022 passed by the Opposite Party No.7, wherein the prayer of the petitioner for release of his pension and other pensionary benefits has been refused on the ground of pendency of a criminal proceeding in G.R Case No.660 of 2007 in the file of learned J.M.F.C., Salipur.

4. Learned counsel for the Petitioner submitted that the Petitioner since was arrested and put behind the bar in connection with the aforesaid G.R Case No.660 of 2007, he was placed under suspension vide order dated 07.10.2007 and continued as such till 05.11.2007.

5. Learned counsel for the Petitioner also submitted that subsequently on being released on bail vide order dated

05.11.2007 under Annexure-2, the Petitioner was reinstated in his service. It is submitted that while continuing as such he retired from his service on the attaining age of superannuation on 31.10.2009.

6. Learned counsel for the Petitioner submitted that no departmental proceeding was initiated as against the Petitioner, even though he was placed under suspension pending drawal of the proceeding against him.

7. It is also submitted that in the said G.R. Case No.660 of 2007, the Petitioner is a co-accused, his relationship being as that of in-law of the husband of the informant (Bhinoi).

8. It is submitted that merely because of the pendency of the G.R Case No.660 of 2007, which has been charge-sheeted for the offence under Sections-498(A), 294, 354 of I.P.C read with Section-4 of the D.P. Act, the Petitioner even though has retired from service since 31.10.2009, but all his retiral benefits have been withheld.

9. Accordingly, it is submitted that necessary order be passed by this Court directing for release of the said benefits.

10. On being directed, learned Addl. Government Advocate placed before this Court the instruction provided to him by the Opposite Party No.7 vide his letter dated 14.10.2022. In the said letter, it has been indicated that even though the Petitioner was placed under suspension from 07.10.2007 to 05.11.2007, the said period of

suspension is yet to be regularized due to pendency of the proceeding in G.R Case No.660 of 2007. It is also submitted that due to pendency of the criminal proceeding, the prayer of the Petitioner for release of the retirement benefits was rejected vide the impugned order under Annexure-7.

11. This Court finds that regularization of the period for which the petitioner remained under suspension has nothing to do with the pendency of the judicial proceeding.

12. Since the Petitioner at no point of time was issued with any departmental proceeding, the authority concerned is directed to regularize the said period of service of the petitioner from 07.10.2007 to 05.11.2007.

13. Not only that since the Petitioner is a co-accused with his status as indicated hereinabove, in relation to a case registered under Sections-498(A), 294, 354 of I.P.C read with Section-4 of the D.P. Act, in view of the pendency of the criminal proceeding, the retiral benefits of the petitioner cannot be withheld for an indefinite period.

14. Therefore, this Court also directs the Opposite Party No.7 to process the application of the Petitioner for sanction of the retiral benefits as due and admissible in favour of the Petitioner. The entire exercise shall be completed within a period of three months from the date of receipt of this order. However, it is observed that the release of the retiral benefits in favour of the Petitioner shall be subject to final outcome of G.R. Case No.660 of 2007.

15. With the aforesaid observations and directions, the Writ Petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

