

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19560 of 2022

Purna Chandra Mohanty Petitioner

-versus-

State of Odisha & Others Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
29.09.2022**

Order No

- 03.** 1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the Petitioner and learned counsel for the State- Opposite Parties.
3. The Petitioner has filed the present Writ Petition with the following prayer:-

“ The petitioner therefore most humbly prays that, this Hon’ble Court may graciously be pleased to issue rule NISI calling upon the Opposite Parties to show cause as to why the pay of the petitioner shall not be revised in accordance with appropriate pay fixation permissible to the post hold by the petitioner and accordingly as to why the arrear shall not be disbursed to the petitioner;

And as to why the application for pension and other retiral benefits shall not be considered and the same shall not be sanctioned and disbursed to the petitioner on adjustment of the provisional pension paid.

And as to why all other retiral benefits like gratuity shall not be paid to the petitioner.

And as to why the leave of period of 11.10.2008 to 01.03.2009 applied for shall not be regularized.

And accordingly as to why the unutilized pay leave shall be paid to the petitioner and as to why the petitioner shall not be awarded interest of rate 18% over the aforesaid amount on and from the date of its due date till its disbursement.

And as to why there shall not be a direction to extend the aforementioned benefits within a stipulated time fixed by the Hon'ble High Court".

4. It is submitted that even though the Petitioner retired from service 31.5.2011, but he has not yet been sanctioned with his retiral benefits by making necessary pay fixation as due and admissible in his favour.

5. On instruction Mr. Das, learned Addl. Standing Counsel for the State submitted that due to non-regularization of the period of service from 11.10.2008 to 01.03.2009, the Petitioner's claim for grant of pension and other benefit has not yet been finalized.

6. Mr. Das, brought to the notice of this Court, the communication issued by the Government, Opposite Party No.1 to the Collector, Bhadrak, Opposite Party No.2 with a request to offer his views regarding regularization of the service from 11.10.2008 to 01.03.2009. Vide another letter issued on the said date, Government-Opposite Party No.1 once again requested the Collector-Opposite Party No.2 to intimate the Department as to whether the leave application of the Petitioner has been sent to the Department for doing the needful.

7. This Court after going through the materials available on record and the submissions made by the learned counsel for the Parties and the documents produced by Mr. Das showing the communications made on 20.09.2022

finds that for non-regularization of the period of service of the petitioner from 11.10.2008 to 01.03.2009, the retiral benefits of the petitioner has been kept withheld. Non-regularization of the period of service is not a ground to held up the retiral benefits and it is the duty of the Department to regularize the said period by applying the provision of the Leave Rules.

8. Therefore, for the laches of the Department with regard to non-regularization of certain period of service, the retiral benefit of the Petitioner could not have been withheld for more than 11 years.

9. In that view of the matter, this Court while disposing the Writ Petition directs the Opposite Party Nos.1 and 2 to regularize the period of service of the Petitioner from 11.10.2008 to 01.03.2009 as due and admissible within a period of one month from the date of receipt of this order. On such regularization of the period of service, the retiral benefit of the petitioner as due and admissible shall also be released within a further period of two months. But since the Petitioner for no laches of his own has been deprived to get his retiral benefit from June, 2011 to till date, the retiral benefits as due and admissible in favour of the petitioner shall carry interest @ 6 % per annum all through.

10. With the aforesaid observations and directions, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge