

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.20139 of 2022

P.Kishore Kumar Subudhi

.... Petitioner
Mr.C.S.Panda, Advocate

-versus-

State of Odisha & others

.... Opposite Parties
Mr. B.P.Tripathy, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

03.11.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners and learned Additional Government Advocate.
4. The Petitioner has filed the present writ application with the following prayer:

“ It is, therefore, most humbly prayed that this Hon’ble Court may graciously be pleased to admit the writ application, to issue Rule Nisi calling upon the Opposite Parties to show cause as to why the prayers made hereunder be not allowed. Upon sowing insufficient cause/no cause make the said Rule absolute, Issue writ/writs in the nature of

Mandamus directing the Opposite Party Nos 1 & 2 to disburse the withheld unutilised leave salary of the Petitioner under Annexure-3 for an amount of Rs.3,49,364/- from the entire sanctioned ULS clai of Rs.11,38,740/- keeping in view the decision of the learned Tribunal upheld by this Hon’ble Court at Annexure-7 series and the decision of Hon’ble Ape Court in the matter of State of Jharkhand Vrs.Jitendra Kumar Srivastava reported in (2014) 2 SCC (L&S) 570 within a tie to be stipulated by Hon’ble Courts declaring the resolutions dated 17.12.1991 and 26.03,2015 under Annexures-5 & 6

respectively illegal and unsustainable.

And/or may pass such other writ/writs, order/orders, direction/directions as this Hon'ble Court may think fit and proper for the ends of justice."

4. It is submitted by the learned counsel for the Petitioner that challenging the inaction of the authorities in releasing the unutilized leave to the Petitioner, he has approached this Court. He further contends that the issue involved in the present case has been directly answered by the Hon'ble Supreme Court in *State of Jharkhand & others –v.-Jitendra Kumar Srivastava & another* reported in (2013) 12 SCC 210. The judgment in the matter of *State of Jharkhand & others v.-Jitendra Kumar Srivastava & another* has also been followed by this Court in W.P.(C) No.3442 of 2016 (*State of Odisha-v.-Nirmal Ch. Satapathy*) while upholding the direction passed by the Orissa Administrative Tribunal.

5. Learned Additional Standing Counsel on the other hand submits that since the Petitioner has not approached the authority, the Petitioner be directed to approach the competent authority by filing a representation and in the event such representation is filed, the authority be directed to consider the representation in view of the law laid down by this Court and the Hon'ble Supreme Court in ***State of Jharkhand and others v. Jitendra Kumar Srivastava and another*** within a stipulated period of time.

6. Considering the aforesaid submission and further keeping in view the limited nature of grievance, the writ application is disposed of, at the stage of admission, by directing the Petitioner to file a comprehensive representation within a period of two weeks from today along with judgment referred to herein above before Opposite Party No.1. In the event such a representation is filed the Opposite Party No.1 shall do well to consider the same keeping in view of the

ratio of the judgment referred to above within a period of six weeks from the date of filing of representation. The decision so taken shall be communicated to the Petitioner within two weeks thereafter..

7. In the event, it is found that the Petitioner is entitled to get unutilized leave salary then the same be released in his favour within a period of four weeks from the date of taking the decision.

8. With the aforesaid observation, the writ application stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

RKS

