

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.20513 of 2022

**Md., Orissa State
Cooperative Bank Ltd.,
BBSR.**

....

Petitioner

-versus-

**Appellate Authority under
Payment of Gratuity Act,
BBSR & Others**

....

Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
12.09.2022**

Order No

2.

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. K.P.Nanda, learned counsel for Petitioner and Mr. N.Biswal, learned counsel for the private Opposite Parties.
- 3.** The present Writ Petition has been filed by the Petitioner-Bank challenging the order dated 09.06.2022 passed by the Appellate Authority under P.G. Act-cum-Joint Labour Commissioner, Bhubaneswar in Appeal No.07/2021 under Annexure-1.
- 4.** The appellate authority by the said order confirmed the order passed by the competent authority under Annexure-5. In the said proceeding, the competent authority held the private opposite party entitled to get a sum of Rs.13,000,00/- towards his gratuity.
- 5.** Mr. Nanda, learned counsel for the Petitioner submitted that the Petitioner during his service career was imposed with punishment vide order under Annexure-4.

6. Mr. Nanda, learned counsel for the Petitioner further submitted that since the Petitioner is facing a criminal proceeding, the gratuity amount should not be released in his favour.

7. Mr. Biswal, learned counsel for the private Opposite Parties on the other hand submitted that the disciplinary proceeding was disposed of vide order dated 28.07.2014 under Annexure-4 and the Petitioner while accepting the punishment, retired from service on the attaining age of superannuation on 31.07.2016.

8. It is also submitted that in the criminal proceeding, the police filed the final form indicating therein that there is no material available against the present petitioner under any of the offences. Accordingly, Mr. Biswal submitted that the prayer as made in the writ petition is not entertainable.

9. Heard learned counsel appearing for the Parties. Perused the materials available on record. This Court after going through the same finds that the disciplinary proceeding initiated against the petitioner was disposed of on 28.07.2014 and in the Criminal Proceeding, final form has been submitted with no evidence being found as against the petitioner.

10. In view of that, this Court finds no illegality or irregularity in the order passed by the appellate authority under Annexure-1 while confirming the order passed by the competent authority.

11. Since there is no punishment pending as against the Petitioner in the eye of law, the prayer made by the Petitioner to withheld the payment of gratuity so deposited by the Bank is not justified.

12. Accordingly, this Court is not inclined to entertain the Writ Petition and dismiss the Writ Petition. It is open for the private

Opposite Party to approach the competent authority for release of the gratuity amount.

(Biraja Prasanna Satapathy)
Judge

Subrat

