

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21513 of 2022

Manik Chand Behera

....

Petitioner

-versus-

State of Odisha and others

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

Order
No.

ORDER
21.10.2022

04.

1. This matter is taken up through hybrid mode.
2. Heard Mr. H.K. Mohanta, learned counsel for the Petitioner and Mr. B. Panigrahi, learned Additional Government Advocate appearing for the State-Opposite Parties.
3. The Petitioner has filed the present writ petition with the following prayer:-

“It is therefore prayed that this Hon’ble Court may graciously be pleased to admit the writ application, issue rule NISI in the nature of writ of mandamus or any other writ/writs as deem fit and proper calling upon the Opposite Parties to show-cause as to why the post retiral benefit of the Petitioner including final pension, gratuity and other post retiral dues shall not be disbursed in his favour along with interest there on @ 18% PA within a particular period that would be fixed by this Hon’ble Court.

In the event of the Opposite Parties fail to show-cause or show insufficient cause said rule be made absolute.

And further be pleased to pass any order/orders or direction/directions as deem fit and proper.”

4. It is submitted by the learned counsel for the Petitioner that the caste certificate produced by the Petitioner at the time of his appointment has been cancelled by the State Level Scrutiny Committee vide its order dated 30.12.2013 and challenging the same, the Petitioner has filed W.P.(C) No.29056 of 2013. It is further submitted that this Court, while issuing notice in the said writ petition vide order dated 17.02.2014, directed that no coercive action shall be taken against the Petitioner. But it is fairly submitted that the said writ petition is pending adjudication before this Court. It is further submitted that in view of such order passed on 17.02.2014 in the aforesaid writ petition, the Opposite Parties should not have held up the retiral benefit of the Petitioner after his retirement from service w.e.f. 31.7.2018.

5. Mr. Panigrahi, learned Additional Standing Counsel appearing for the Petitioner submits that unless and until the issue is decided by this Court in the aforesaid pending writ petition, the retiral benefit of the Petitioner cannot be released. He also brought to the notice of this Court the communication dated 11.10.2022 issued by the Opposite Party No.2 wherein it has been indicated that in view of the pendency of W.P.(C) No.29056 of 2013, it is not possible to release the retiral benefit of the Petitioner.

6. In view of the admitted fact that the caste certificate of the Petitioner has been cancelled by the State Level Scrutiny Committee and the matter with regard to such cancellation is pending adjudication before this Court in W.P.(C) No.29056 of

2013, no direction can be issued to the Opposite Parties to release the retiral benefit of the Petitioner unless the said pending writ petition is disposed of finally by this Court.

7. In view of the same, the prayer made in this writ petition cannot be entertained.

8. However, it is observed that the Petitioner may take appropriate step for early disposal of the pending writ petition.

9. The writ petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Debasis

