

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No.2729 of 2009

Naba Kishore Mishra

.....

Petitioner

Mr. S. Mallik, Advocate

-Versus-

State of Orissa & Ors.

.....

Opposite Parties

*Mr. P. Behera, SC, Transport
Deptt.*

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

23.08.2023

I.A. No.1252 of 2022

Order No.
03

This matter is taken up through hybrid mode.

2. This interlocutory application has been filed by opposite party no.1 for modification of the order dated 19.10.2022.

3. Heard Mr. S. Mallik, learned counsel for the petitioner and Mr. P. Behera, learned Standing Counsel appearing for the opposite party-Transport Department.

4. Considering the averments made in the application itself, the order dated 19.10.2022 is recalled and fresh order is passed in WPC (OAC) No.2729 of 2009.

The interlocutory application stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Cont...

WPC (OAC) No.2729 of 2009

Order No.04
23.08.2023

This matter is taken up through hybrid mode.

2. Heard Mr. S. Mallik, learned counsel appearing for the petitioner and Mr. P. Behera, learned Additional Standing Counsel appearing for the Transport Department.

3. The Petitioner has filed this writ petition seeking to quash the order under Annexure-7 passed by opposite party No.2, i.e. officer order No.11509 dated 01.09.2009 wherein the said opposite party stated that it is not possible to release the gratuity in favour of the petitioner withholding the surplus cash of amount of Rs.49290/- detected with him by the Vigilance Department, during pendency of the vigilance proceeding.

4. Mr. S.Mallik, learned counsel appearing for the petitioner contended that the stand has been taken in the counter affidavit filed by the opposite parties that because of the pendency of the vigilance proceeding, the gratuity amount has been withheld by the authority in view of Rule 66 (2) of the OCS (Pension), Rules, 1992. In the rejoinder affidavit, the petitioner has filed the order dated 27.07.2018, by which the proceeding which has been initiated against the petitioner has been dropped. Therefore, there is no other impediment to release the gratuity amount in favour of the petitioner.

5. Mr. P. Behera, learned Standing Counsel appearing for the Transport Department contended that the departmental proceeding initiated against the petitioner has been dropped, but the vigilance proceeding is pending against the petitioner. Therefore, the release of gratuity amount in favour of the petitioner can be considered after finalization of the vigilance proceeding.

6. Having heard learned counsel for the parties and after going through the records, since departmental proceeding has been dropped and vigilance

proceeding is still pending against the petitioner, the release of gratuity amount in favour of the petitioner shall be considered after the vigilance proceeding is decided.

7. With the above observation and direction, the writ petition stands disposed of.

Alok

(DR. B.R. SARANGI)
JUDGE



Signature Not Verified

Digitally Signed
Signed by: ALOK RANJAN SETHY
Designation: Secretary
Reason: Authentication
Location: Orissa High Court
Date: 24-Aug-2023 17:36:35

