

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.22527 of 2022

Laxmidhar Majhi

....

Petitioner

Mr.Sidheswar Mallik, Advocate

-versus-

State of Odisha& another

....

Opp. Parties

Mr.P.K.Rout, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

28.10.2022

Order No.

02

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard Mr.Mallik, learned counsel for the Petitioner and Mr.Rout, learned Additional Government Advocate.
3. The present writ application has been filed with a prayer to quash the impugned order dated 21.07.2022 under Annexure-2 and further it has been prayed by the Petitioner to direct the Opposite Parties to sanction and release full pension, gratuity, leave salary in favour of the Petitioner with interest on the delayed payment within a stipulated period of time.
4. Learned counsel for the Petitioner submits that a Departmental Proceeding bearing No.22983 dated 24.10.2009 was drawn up against the Petitioner in which the Petitioner has entered appearance

and submitted his statement of defence. However, the same was pending for a long time. He further submits that for the self same charges, Sambalpur Vigilance P.S.case No.43 of 2008 was registered and after investigation the I.O. in the aforesaid Vigilance case has submitted the final form on 12.12.2008 under Section 173 Cr.P.C, On perusal of the final form, which is attached to the writ application as Annexure-3, it appears that after conclusion of the investigation the I.O. of the case has submitted final form with the observation that prima facie evidence is well established against accused Bibeka Tripathy. Therefore he has submitted Charge Sheet No.48 dated 12.12.2008 under Section 7 of the E.C.Act against the aforesaid accused Bibeka Tripathy. So far as the present Petitioner is concerned, it is observed that due to insufficient evidence established against the accused Laxmidhar Majhi, the case has been referred to the concerned department for taking necessary departmental action against him. Thus, from the above, it appears that no charge sheet was submitted against the Petitioner. Therefore, the Vigilance proceeding culminated against the present Petitioner by filing the final form so far as the present Petitioner is concerned. During the pendency of the aforesaid proceeding, the Petitioner on an earlier occasion approached this Court by filing a writ application bearing W.P.(C) No.2369 of 2020 challenging the continuance of the departmental proceeding against the Petitioner. This Court vide order dated 03.02.2020 directed the authority to conclude the departmental proceeding within a period of three months from the date of communication of a certified copy of this order. Further, it is made clear that in the event the departmental proceeding is not concluded

within the time stipulated then the said Departmental Proceeding shall be treated to have been closed. At this juncture, learned counsel for the Petitioner submits that after the order dated 03.02.2020 was passed by this Court the order was communicated by the departmental authority vide letter dated 10.02.2020 at the instance of the present Petitioner and no further communication was received from the department end. Further, it is submitted by the learned counsel for the Petitioner that the order dated 03.02.2020 passed in W.P.(C) No.2369 of 2020 has attained its finality as the same has not been challenged by the Opposite Parties in any higher forum. Therefore, in view of the order passed by this Court in W.P.(C) No.2369 of 2020 the departmental proceeding has come to an end.

5. In view of the aforesaid facts both the Departmental Proceeding as well as the Vigilance proceeding against the Petitioner has come to an end. Therefore, there is no legal impediment to withhold the pensionary as well as retiral benefit against the Petitioner.

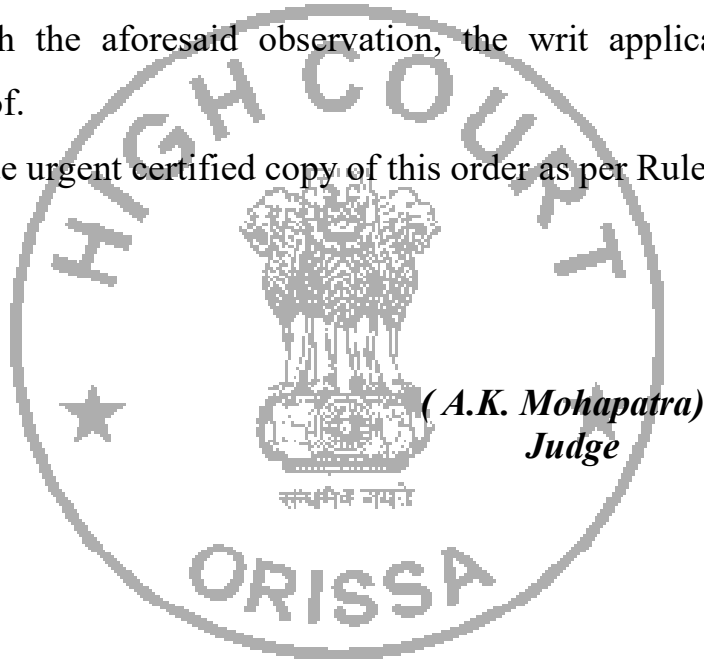
6. Learned Additional Government Advocate on the other hand does not dispute the aforesaid fact. However, he submits that he has no instruction with regard to conclusion of the departmental proceeding which was initiated against the present Petitioner.

7. Having heard learned counsel for the parties and after careful examination of the fact presented before the Court, this Court is of the considered view that both the Departmental proceeding as well as the vigilance proceeding has come to an end. Therefore, there is no legal impediment to release the pensionary and retiral benefit in favour of the Petitioner. Therefore, considering the submission made

by the learned counsel for the Petitioner and the learned Additional Government Advocate, the authority is directed to verify the fact whether the departmental proceeding has come to an end in view of the order dated 03.02.2020 passed by this Court in W.P.(C) No.2369 of 2020. In the event the authority has come to a conclusion that the departmental proceeding has come to an end in view of the aforesaid order of this Court, then the authority shall do well to calculate, sanction and disburse the pensionary benefit as well as the retiral dues of the Petitioner within a period of two months from the date of production of certified copy of this order.

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

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



RKS