

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.23647 of 2022

Maheswar Mohanty

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

21.09.2022

Order No

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. A.K. Biswal, learned counsel for the Petitioner and Mr. A.P. Das, learned ASC appearing for the Opp. Parties.
3. The present writ Petition has been filed with the following prayer:-

“It is, therefore, prayed that in the interest of justice, this Hon'ble Court may graciously be pleased to admit this writ application, issue Rule Nisi, calling upon the opp. parties to show cause as to why the letter dtd. 06.06.2022 (Annexure-11) issued in rejecting the prayer of the petitioner for release of the poensionery benefit to the petitioner shall not be quashed declaring the same as illegal and arbitrary;

And as to why the Opp. Parties shall not be directed to sanction and disburse the final pension as well as other pensionery benefits including gratuity and unutilized leave salary to the petitioner as per his entitlement within a stipulated period;

And if the Opp. parties failed to show cause or show insufficient cause/irrelevant cause, than make the said rule nisi absolute;

And pass any other order/s. direction/s as may deem fit and proper in the facts and circumstances of the case;

For this act of kindness, the Petitioner shall as in duty bound ever pray.”

4. It is submitted that the pensionary benefits of the Petitioner while was not released the Petitioner approached this Court in W.P,(C) No. 40527 of 2021 under Annexure-10. This Court vide order dtd.24.12.2021 disposed of the said writ Petition with a direction on the O.P. No. 1 to consider and take a decision on the representation submitted by the Petitioner.

5. It is submitted that O.P. No. 1 vide the impugned order dtd.06.06.2022 rejected the prayer of the Petitioner by refusing to release the pensionary benefits on the ground that against the order of acquittal passed by the learned Special Judge, Vigilance, Bolangir on 26.04.2014 in CTR No. 153/122 of 2007 arising out of Sambalpur Vigilance P.S. Case No.31 of 2006, the State through the Vigilance Department has preferred CRLLP No.104 f 2014.

6. Mr. Biswal, learned counsel for the Petitioner submitted that even though the aforesaid CRLLP No. 104 of 2014 has been filed challenging the order of acquittal passed against the Petitioner, but no notice whatsoever has been issued in the said CRLLP by this Court.

7. This Court for perusal call for the records of CRLLP No. 104 of 2014 and finds that the said matter was initially dismissed for non-compliance of the order dtd.07.09.2018 and it was restored vide order dtd.13.12.2019. But till date no notice whatsoever has been issued and no order has also been passed after 13.12.2019.

8. Taking into account the stand taken in the writ Petition and the fact that no notice whatsoever has been issued in the aforesaid CRLLP No. 104 of 2014, this Court finds that the ground on which

the O.P. No. 1 refused to release the pensionary benefits cannot sustain legal scrutiny.

9. Since the Petitioner has already been acquitted by the Competent Court and no leave has been allowed by this Court to prefer an appeal against the said Judgment, as per the considered view of this Court there is no legal proceeding pending as against the Petitioner as on date. Hence this Court is inclined to quash the communication/order dtd.06.06.2022 passed by the O.P. No. 1 under annexure-11.

10. While quashing the same, this Court directs the Opp. Party No. 1 to release the pensionary benefits of the Petitioner as due and admissible within a period of two (2) months from the date of receipt of this order. However, it is observed that the release of such pensionary benefits in favour of the Petitioner shall be subject to the final outcome of CRLLP No.104 of 2014.

11. The writ Petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha