

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.24245 of 2022

Shiba Prasad Biswal

.... Petitioner

-versus-

State of Odisha & Ors.

.... Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
21.09.2022**

Order No

01. 1. This matter is taken up through Hybrid Mode.

2. Heard Mr. S.K.Purohit, learned counsel for the Petitioner and Mr. Ch.S.Mishra, learned Addl. Government Advocate for the State- Opposite Parties.

3. The Petitioner has filed the present Writ Petition with the following prayer:-

“ It is therefore, prayed that your Lordships may be graciously pleased to admit this case, issue notice on the Opp. Parties asking them to show cause as to why the petitioner shall not be allowed one increment earned on 1.1.2009 and on hearing if the Opp. Parties show no or insufficient reasons, then issue a writ of mandamus or any other writ of appropriate nature directing the Opp. Parties to grant one increment for the year i.e. from 1.1.2008 to 31.12.2008 for the purpose of pensionary benefit only with the further direction to calculate the benefits admissible to the Petitioner by 1.1.2009 to be paid by revising the pension as due, within a scheduled period”.

4. Learned counsel for the Petitioner submitted that though the increment of the Petitioner false due in the 1st January of each year, but he was not sanctioned with the

said increment as due on 1.1.2009 as he retired from service on 31.12.2008.

5. Mr. Purohit, learned counsel for the Petitioner submitted that since the Petitioner rendered his duty from 1.1.2008 to 31.12.2008 for a period of one year his increment as due to on 1.1.2009 should have allowed in his favour.

6. It is also submitted that seeking such extension of the benefit though the Petitioner approached the Opposite Party No.2 on 25.08.2021 under Annexure-2 and the said representation has been forwarded to the Opposite Party No.3 vide letter dated 02.07.2022 under Annexure-3, but no decision has been taken on the same.

7. Mr. Purohit also brought to the notice of this Court a judgment rendered by this Court on 30.07.2021 in W.P.(C) No.17715/2020. In the said judgment, this Court in Paragraph-18 has held as follows:-

*“18. In view of the facts and law, as discussed above, this Court is of the considered view that the petitioner, having rendered service from 01.01.2019 to 31.12.2019 for a period of 12 months and his increment having due on 01.01.2020 and he having stood at par with **P. Ayyamperumal** (supra), is entitled to get the notional increment for the year i.e. from 01.01.2019 to 31.12.2019 for the purpose of pensionary benefits only. Accordingly, it is directed that the benefits admissible to the petitioner be re-fixed taking into account the notional increment admissible to the petitioner by 01.01.2020 and the same should be paid as early as possible by revising the pension as due, preferably within a period of 3(three) months from the date of communication of this judgment. Consequentially, the order dated 14.07.2020 in Annexure-3, whereby the representations of the petitioner have been rejected, is liable to be quashed and is hereby quashed”.*

8. This Court from the pleadings found that the claim of the Petitioner is squarely covered by the aforesaid decision of this Court. In view of that the Opposite Party No.3 is directed to take a decision on the claim of the Petitioner as made in Annexure-2 and forwarded to him under Annexure-3 within a period of one month from the date of receipt of this order. The financial benefit as due and admissible be also released on such consideration of the matter within a further period of one (1) month.

9. With the aforesaid observations and directions, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

