

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C (OAC) No.1663 of 2018

Dr. Jayashree Mohanty **Petitioner**
Mr. Manoj Kumar Khuntia, Advocate
-versus-
State of Odisha & another **Opposite Parties**
Mr. P.K. Rout, A.G.A.

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
15.07.2022

Order No.

04. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Addl. Govt. Advocate for the State.
3. The present writ petition has been filed with a prayer to direct the Opposite Parties to accept the Voluntary Retirement Application of the Petitioner w.e.f. 25.07.2017 and further to direct the Opposite Parties to release post-retrial dues as are due and admissible to the present Petitioner as per law.
4. It is submitted by learned counsel for the Petitioner that the Petitioner was working as a Doctor in the District Headquarters Hospital at Bhadrak. While working as such, due to her personal difficulties and family problems, she could not continue to perform her duties effectively. As such, after serving for about 24 years as a Doctor, she has submitted her application for voluntary retirement w.e.f. 25th July, 2017. However, it is submitted by learned counsel

for the Petitioner that, such application of the Petitioner for voluntary retirement from service has not been accepted by the Government by referring to the provisions under Rule 42(2) of OCS (Pension) Rules, 1992. Learned counsel for the Petitioner submits that the proviso to Rule 6.4 of the said Rules say that in the event of voluntary retirement, the application is to be accepted by the authorities. The rule further provides that if the application is not accepted within three months of its submission, then the same is treated to have been accepted by the State Government and the Government Employee is entitled to all retirement dues with effect from that date. It is further submitted by learned counsel for the Petitioner that, the Petitioner has approached the authorities by filing a representation on 25.07.2017. However, it is stated that the said representation is pending before Opposite Party No.1 till date and no final decision has yet been taken as of now.

5. Mr. Y.S.B. Babu, learned Addl. Govt. Advocate on the other hand submits that, since the Petitioner has approached the authorities by filing a representation, which is pending for consideration, let the authority, i.e. Opposite Party No.1 be directed to consider the representation of the Petitioner in the light of the relevant provisions contained in Rule 42 of the OCS (Pension) Rules, 1992 and a decision be taken in the matter within a stipulated time.

6. At this stage, learned counsel for the Petitioner draws attention of this Court to an order dated 09.12.2021 passed in WPC (OAC) No.2187 of 2018 (*in the matter of : Jheseketan Mahanty v. State of Odisha and others*) . She further submits that the ratio decided in that case squarely applies to the present case of the Petitioner.

7. Considering the aforesaid submissions of the respective parties in totality and the limited nature of grievance of the Petitioner, this Court disposes of this writ petition directing the Opposite Party No.1 to consider and dispose of the representation of the Petitioner vide Annexure-2 within a period of two months from the date of production of a certified copy of this order. It is further directed that, while considering the representation of the Petitioner, Opposite Party No.1 shall take into consideration the relevant rules / laws laid down by this Court in the above noted judgment. Further, it is open for the Petitioner to rely upon any other relevant judgment and file the same along with the certified copy of this order. Further, the Opposite Party No.1 is directed to consider and dispose of the representation of the Petitioner by passing a speaking and reasoned order by taking into consideration the judgment in *Jheseketan Mahanty's case* (supra). The decision so taken by the authority shall be communicated to the Petitioner within two weeks thereafter.

8. With the aforesaid observation and direction, the writ petition is disposed of.

9. Urgent certified copy of this order be granted as per rules.

(A.K. Mohapatra)
Judge