

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No. 2013 of 2018

Jayanta Kumar Nayak

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

14.12.2022

Order No

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. A.K. Chhatoi, learned counsel for the Petitioner and Mr. D.K. Mohanty, learned Addl. Standing Counsel appearing for the Opp. Parties.

3. The present writ petition has been filed with the following prayer:-

“ In view of the facts mentioned in paragraph-6 above, the applicant prays for the following relief(s):

(i) The Hon'ble Tribunal may be pleased to declare that the applicant is not covered under the new pension scheme as at Annexure-5 dated 17.9.2005.

(ii) The Hon'ble Tribunal may be pleased to declare that the applicant is governed under the pre-amended OCS (Pension) Rules from the date of his joining in Government service.

(iii) The Hon'ble Tribunal may be pleased to direct the respondents to extend the benefit of pre-amended pension rules and GPF Rules from the date of joining of the applicant by way of opening GPF Account.

(iv) The Hon'ble Tribunal be pleased to pass such other order/ orders as deemed fit and proper.”

4. It is contended that even though the Petitioners were all engaged prior to the cut off date fixed by the Finance Department as per

Annexure-5, but they have not been allowed to be governed under the provisions of OCS (Pension) Rules, 1992 and GPF (O) Rules, 1938. Accordingly, it is contended that since admittedly the Petitioners all engaged prior to 01.01.2005, they are to be governed under OCS (Pension) Rules, 1992 and GPF (O) Rules, 1938.

5. Mr. D.K. Mohanty, learned Addl. Standing Counsel on the other hand made his submission basing on the stand taken in the counter affidavit. It is contended that since Petitioners were regularized in their service after coming into force of the Odisha Civil Services (Pension) Amendment Rules, 2005, which came into force on 01.01.2005, they are not eligible to be covered under Old Pension Rules.

6. This Court after going through the materials available on record finds that the Petitioner prior to approaching this Court has not ventilated his grievance as claimed in the writ petition. Therefore, this Court while disposing the writ petition, permits the Petitioner to make a detailed application claiming extension of the benefits as has made in the present writ petition before the O.P. No. 1. It is observed that, if any such application is moved within a period of three (3) weeks from today, O.P. No. 1 shall take a lawful decision on the same within a further period of three (3) months from the date of receipt of such application. However, it is observed that while considering the claim of the Petitioners, the order passed by this Court in similar cases be taken into consideration by the Opp. Party.

7. The writ petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge