

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OA) No.1738 of 2015

Trinath Sahu

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
18.10.2022

Order No

- 02.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. G.N. Panda, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned Standing Counsel appearing for the Opp. Parties.
3. The present writ Petition has been filed with the following prayer:-

“The applicant prays for the following reliefs:

- i) The Original Application may be allowed.*
- ii) Necessary direction be issued to Respondent No. 1 for drawl and disbursement of differential salary from February 2000 to December 2005 after adding incremental benefits and the differential salary from January 2006 to March 2013 on proper fixation of his pay under ORSP Rules 2008:*
- iii) Necessary direction be issued to the Respondents more particularly to the Respondent No.1 & 2 to pay, sanction, disburse and release the final pension, DCRG amount, unutilized leave salary, commuted value of pension and arrear in pension in favour of the applicant within a stipulated time along with @18% interest on the differential amount of pension to till the actual payment in view of guidelines issued by the Respondent No.3 under Annexure-4 & 5 to the Original Application and @7% interest on his DCRG amount w.e.f 01.04.2014 to till the date of actual*

payment as per Rule 49(5) of the OCS (Pension) Rules, 1992 as neither any criminal case nor any Disciplinary Proceeding was pending against the applicant on the date of his retirement from Govt. Service.

- iv) *Any other relief/s as deem fit and proper be awarded in favour of the applicant including litigation cost of Rs.10,000/- for the interest of justice.*

4. It is submitted that even though the Petitioner has retired from his service on attaining the age of superannuation on 31.03.2013, but his retiral benefits were never released till he was paid with the same on 10.08.2018. It is submitted that as on the date of retirement of the Petitioner no proceeding was pending against him and one such proceeding initiated in the year 2009 was already disposed of on 19.08.2012. It is accordingly submitted that since as on the date of retirement no proceeding was pending against the Petitioner, there was no occasion on the part of the Opp. Parties in withholding the retiral benefits of the Petitioner. It is accordingly submitted that the Petitioner is entitled to get interest for such delayed payment of his retiral benefits.

5. Mr. Balabantaray, learned Standing Counsel on the other hand submitted that against the order of punishment passed in the disciplinary proceeding on 19.08.2012, the Petitioner preferred an appeal and the said appeal was disposed of on 17.07.2013 with the punishment of withholding of 5% of pension for a period of two (2) years. It is submitted that after disposal of the appeal the retiral dues of the Petitioner was released on 10.08.2018.

6. Heard learned counsel for the Parties. This Court after going through the materials available on record, finds that as on the date of retirement of the Petitioner, no proceeding was pending against him and the appeal filed against the order of punishment was

disposed of on 17.07.2013 with the punishment of withholding of 5% of pension for a period of 2(two) years.

7. Taking into account the submission made by the learned counsel for the Petitioner that the order passed by the appellate Authority on 17.07.2013 was never challenged, it is the view of this Court that after disposal of the appeal on 17.07.2013 the retiral dues of the Petitioner as due and admissible should have been released in his favour.

8. Since the said benefit was only extended on 10.08.2017 the Petitioner as per the considered view of this Court is entitled to get interest @ 6% per annum on the arrear pension amount as well as the gratuity amount for the period beyond 17.07.2013 till 09.08.2018.

9. This Court while holding so, directs the Opp. Party No. 1 to calculate and release the amount towards interest as directed by this Court hereinabove within a period of three (3) months from the date of receipt of this order.

10. The writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha