

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No. 1166 of 2016

Bintu Kumar Sabar

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

01.08.2022

Order No

- 01.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Gartia, learned counsel for the Petitioner and Mr. Samal, learned Standing Counsel appearing for the Opp. Party Nos. 1 to 4. In spite of notice no appearance on behalf of O.P. No. 5.
3. The Petitioner is aggrieved by the order issued by the Sub-Collector, Patnagarh on 26.02.2016 under Annexure-5 and the consequential order passed by O.P. No. 5 on 29.02.2016 under Annexure-5.
4. It is submitted that the Petitioner while continuing as a Sikshya Sahayak, he made his application for getting the benefit of disability pension pursuant to the scheme floated by the Govt. under Annexure-4.
5. It is submitted that on being found eligible, he was sanctioned with such disability pension w.e.f.15.04.2005. It is further submitted that while in receipt of such disability pension, without

issuing any show cause the order at Annexure-5 was passed by the Sub-Collector, Patnagarh with a direction on the Executive Officer of the N.A.C. to cancel the said sanction of disability pension and to make recovery of the amount.

6. It is submitted that as per the scheme the Petitioner is eligible to get the benefit of disability pension as he fulfils all the eligibility criteria as indicated in the said scheme. It is also submitted that prior to quashing of the impugned order, the Petitioner was never given an opportunity to place this case before the said O.P. No. 2. Accordingly, it is submitted that not only the order at Annexure-5, but also the consequential order at Annexure-6 are liable to be interfered with by this Court. In spite of due service of notice, no counter affidavit has been filed by the State-Opp. Parties.

7. However, after going through the materials available on record, this Court finds that prior to passing of the impugned order at Annexure-5 and the consequential order at Annexure-6, the Petitioner was neither noticed nor given any opportunity of hearing. This Court accordingly while setting aside the same so far as it relates to the Petitioner, directs O.P. No. 2 to take a fresh decision by giving reasonable opportunity of hearing to the Petitioner.

8. While taking such a decision, O.P. No. 2 is to take into consideration the scheme floated by the Govt. under Annexure-4. The entire exercise shall be completed within a period of four (4) months from the date of receipt of this Order.

9. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Subrat