

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.28900 of 2022

Rabindra Kumar Mishra ***Petitioner***
Mr. Subham Sharma, Advocate
-versus-
State of Odisha and another ***Opposite Parties***
Mr. B. Pr. Tripathy, A.G.A.

**CORAM:
JUSTICE A.K. MOHAPATRA**

Order No.

**ORDER
06.12.2022**

- 01.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the petitioner and learned Additional Government Advocate for the State. Perused the writ petition as well as documents annexed to the writ petition.
 3. The present writ petition has been filed by the petitioner with a prayer for a direction to quash the Letter No.8350 dated 16.04.2022 under Annexure-3 and further prays for a direction to the opposite parties to disburse the unutilized leave salary of the petitioner at the rate of 18% annum for non-payment of unutilized salary till the same is disbursed in favour of the petitioner.
 4. It is submitted by Mr. Jena, learned counsel for the petitioner that the petitioner was working as Deputy Director, Health and Family Welfare Department and he has retired from service on attaining age of superannuation w.e.f. 30.04.2018. It is further submitted that the petitioner was in service, a proceeding was

initiated against the petitioner and the same is still pending before the departmental authorities. It is also submitted by Mr. Jena, learned counsel for the petitioner that since the petitioner retired from service w.e.f. 30.04.2018, the final pension, DCRG, unutilized leave salary is pending for finalization of disciplinary proceeding. In such view of the matter, Mr. Jena, learned counsel for the petitioner submits that a direction may be given to the authorities to calculate all unutilized leave salary and others and the same be paid to the petitioner within a stipulated period of time.

4. Learned counsel for the State, on the other hand, submits that the proceeding was initiated against the petitioner while he was in service and the departmental proceeding is still pending and the unutilized leave salary as due and admissible of the petitioner is pending. However, he further submits that in the event this Court directs the authorities, who shall consider and sanction the unutilized leave salary of the petitioner as due and admissible, if there is no legal impediment and disburse the same within a stipulated period of time.

5. Considering the submissions made by the respective parties, this Court thinks it proper to dispose of the matter by directing the Opposite Party No.1 before whom the final pension papers and other documents are to collect and sanction and disburse the unutilized leave salary as due and admissible be released in favour of the petitioner within a period of two months in accordance with law from the date of production of certified copy of this order, if there is no other legal impediment to release the such amount in favour of the petitioner. The petitioner is directed to appear before the Opposite Party No.1 along with certified copy of this order and the said Opposite Party

shall act as has been directed hereinabove.

7. With the aforesaid observation/direction, the writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge

Jagabandhu

