

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29158 of 2022

Jogeswar Dharua

....

Petitioner

Mr. S.K. Gartia, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. T.K. Pattanaik, A.S.C.

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

**ORDER
09.11.2022**

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The present writ petition has been filed by the petitioner with the following prayers:

“Under the aforesaid circumstances morefully narrated herein above the petitioner most humbly prays that this Hon’ble Court may graciously be pleased to admit the writ petition and issue Rule “NISI” calling upon the Opp. Parties to show-cause as to why the Opp. Parties more particularly the Opp. Party Nos.1&4 will not be directed to take immediate steps for releasing the arrear salary dues of the petitioner for the period 01.07.2006 to 09.03.2007 and from 10.03.2007 to 09.07.2009 with interest.

If the Opp. Parties fail to show-cause or show insufficient cause, the Rule may be made absolute;

And pass any other order(s)/direction(s) as would deem fit and proper under the facts and circumstances of the

case;

And pass such other order/orders as this Hon'ble Court deems fit and proper in the facts and circumstance of the case;"

4. It is submitted by learned counsel for the petitioner that earlier the petitioner had approached this Court by filing W.P.(C) No.10315 of 2014, which was disposed of on 09.08.2017 with a direction to the Opposite Party No.1 to consider the proposal of Opposite Party No.4 in respect of payment of the arrear salary of the petitioner and take a decision thereon within a period of two months from the date of communication of such decision. Further, it is submitted that in the event a decision is taken to pay the arrear salary as asked for, the same be paid to the petitioner by Opposite Party No.1 within a period of four weeks thereafter. After disposal of the W.P.(C) No.10315 of 2014, the petitioner approached the Opposite Party Nos.1 and 4, however, till date nothing has been done in the matter. It is further submitted by leaned counsel for the petitioner that although the petitioner has retired from service since 2012 on attaining the age of superannuation, he has not received the arrear dues although more than one decade has elapsed in the meantime. Therefore, it is stated that the conduct of the Opposite Party Nos.1 and 4 is in clear violation of mandate under Article 21 of the Constitution of India as has been held by this Court as well as Hon'ble Supreme Court in many land mark judgments.

5. Learned counsel for the State, on the other hand, submits that probably this fact was not brought to the notice of the authorities, therefore, no decision has been taken in the case of the petitioner in the meantime.

6. Considering the aforesaid submissions, this Court disposes of

the writ petition with a direction to the Opposite Party Nos.1 and 4 to calculate arrear dues as on today and payable to the petitioner and dispose of the same within a period of four weeks from the date of production of a certified copy of this order by the Petitioner, failing which, the persons responsible for delay in releasing the pension, pensionary benefits and arrears of salary as is due and admissible in favour of the Petitioner shall be liable to pay interest @ 18% per annum, if there is no legal impediment and as has been directed by Hon'ble Supreme Court in the case of ***D.D. Tewari (D) through L.Rs. vs. Uttar Haryana Bijli Vitran Nigam Ltd.***, reported in ***2015 (1) OLR (SC)-81***.

7. It is the responsibility of the Petitioner to serve an authenticated copy of this order on the Competent Authority within a period of ten days.

8. With the above direction, the Writ Petition stands disposed of.

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

(***A.K. Mohapatra***)
Judge