

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.4191 of 2014

An application under Section 19 of the State Administrative Tribunal's Act, 1985.

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Akshaya Kumar Pattanaik

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner : M/s. Mr. U.C.Mohanty &
B.Biswal

For Opp. Parties : M/s. M.K.Balabantaray,
Standing Counsel

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 26.04.2022 and Date of Order:18.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. U.C.Mohanty, learned counsel for the Petitioner and Mr. M.K.Balabantaray, learned Standing Counsel for the State-Opposite Parties.
3. The Petitioner filed the present Writ Petition with a prayer to direct the Opposite Parties to pay the benefit of VRS along with the interest within the stipulated time or to take back him in his service.

4. It is submitted by the learned counsel for the Petitioner that the Petitioner while continuing as a Head Clerk in the Office of Special Land Acquisition Officer, NALCO, he was posted to the Block Office, Kaniha vide order dated 25.04.2013 under Annexure-1 and the Petitioner accordingly joined in his new post on 06.05.2013.

5. It is submitted that subsequent to his joining at Kaniha, when the Petitioner suffered from illness, he applied for leave, which was sanctioned up to 31.05.2013.

6. It is submitted that as the Petitioner did not recover he made further application to remain on leave.

7. It is submitted that due to his suffering from illness and for some extraneous reason, the Petitioner made an application before the Opposite Party No.2 on 24.06.2013 under Annexure-3 with a prayer to allow him to take voluntary retirement.

8. It is submitted that the said application of the Petitioner was accepted by the Collector w.e.f. 31.07.2013 vide order dated 03.08.2013 under Annexure-4. But in the said order, it was indicated that since the application of the Petitioner for his retirement on VRS w.e.f. 31.07.2013 has been accepted, the Petitioner was directed to submit VRS application in proper format for taking further action.

9. It is further submitted that subsequent to the order issued under Annexure-4, the Petitioner was allowed the benefit of RACP vide order dated 03.09.2013.

10. It is submitted that since in the order dated 03.08.2013 under Annexure-4, the Petitioner's application was accepted under the VRS, and the Petitioner was

directed to make application in proper format for further action, the Petitioner filed the present Writ Petition with a prayer to extend the said benefit of VRS as indicated in Annexure-4.

11. Mr. Balabantaray, learned Standing Counsel for the State-Opposite Parties on the other hand made his submission relying on the counter filed by the Opposite Party No.2.

12. It is submitted that the Petitioner's application to take voluntary retirement was accepted w.e.f. 31.07.2013 vide order dated 03.08.2013 under Annexure-4 and all the claim as due and admissible will be decided in terms of the provision contained under Rule-42 of the OCS (Pension) Rules, 1992.

13. It is also submitted that the Petitioner has served more than 34 years under the Government and his claim for pension and other pensionary benefits is covered as per the provision contained under Rule-42 of the OCS (Pension) Rules, 1992.

14. It is further submitted that since the Petitioner's application to take voluntary retirement under Annexure-3 was accepted vide order dated 03.08.2013 under Annexure-4, the claim of the Petitioner to extend the benefit of VRS is misconceived.

15. Accordingly, it is submitted that the Petitioner is not entitled to get the benefit as prayed for in the present Writ Petition.

16. Heard learned counsel for the Parties.

17. Perused the materials available on record. It is not disputed that the Petitioner while continuing in the establishment of B.D.O, Kaniha Block, he made his application under Annexure-3 to take voluntary retirement and the said application was duly accepted w.e.f. 31.07.2013 vide order dated 03.08.2013 under Annexure-4. Therefore, the claim of the Petitioner to get any benefit is to be decided as per the provision contained under Rule-42 of the OCS (Pension) Rules, 1992.

18. Since the Petitioner has rendered more than 34 years of service under the Government, his claim for pension and other benefits comes within the purview of Section-42 of the said Rules. But the prayer made by the Petitioner to extend the benefit of VRS, cannot be accepted on the face of the application made under Annexure-3 and its acceptance under Annexure-4.

19. Therefore, this Court while disposing the Writ Petition directs the Opposite Parties to extend all the benefits as due and admissible in favour of the Petitioner in terms of the provision contained under Rule-42 of the OCS (Pension) Rules, 1992. The entire exercise shall be completed by the Opposite Party No.2 within a period of three months from the date of receipt of this order.

20. With the aforesaid observations and directions, the WPC(OAC) stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 18th of May, 2022/Subrat