

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.1313 of 2017

Braja Kishore Mohapatra **Petitioner**

-versus-

State of Odisha & Ors. **Opposite Parties**

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
05.09.2022

Order No

- 01.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Rath, learned Sr. Counsel for the Petitioner and Mr. R.C. Pattnaik, learned Standing Counsel appearing for the Opp. Parties.
3. It is submitted that when the proceeding initiated against the Petitioner was not finalized for a pretty long period, the Petitioner approached the learned Tribunal in O.A. No.1923(C) of 2013. Learned Tribunal vide its order dtd.08.04.2016 disposed of the said original application with the following order:-

“Heard Mr. P.K.Rout, learned counsel for the applicant and Mr. G.C.Mohapatra, learned standing counsel for SME.

The learned counsel for the applicant stated that while the applicant serving as Asst. teacher in Madhyakhanda Model U.P. School was put under suspension on contemplation of a departmental

proceeding on the ground of non-production of certificate and defiance of authority as per Rule 12 of OCS (CC&A) Rules, 1962 vide office order dated 20.7.2006. While the applicant was under suspension for around seven years, hardly one month before his retirement on 1.5.2013, the respondents initiated a departmental proceeding by an order dated 2.4.2013 at Annexure-4. The proceeding under Rule-15 of the OCS (CC&A) Rules, 1962 is misconceived as the applicant has already retired from Govt. service with effect from 1.5.2013. Since the applicant has already retired from government service, he can no more be punished in a disciplinary proceeding under OCS (CC&A) Rules, 1962. At best a proceeding can be initiated against him under Rule-7 of the OCS (Pension) Rules, 1992. The learned counsel for the applicant further submitted that due to inordinate delay in disposal of the disciplinary proceeding, the applicant retiral benefits.

In view of the above, I feel that even if in the meantime too much time has been consumed by the respondent authorities, the departmental proceeding is still pending without being finalised. It is therefore, imperative to close the enquiry as early as possible by the concerned department. Therefore, the respondents are directed to finalise the departmental proceeding initiated against the applicant as per Rule 7 of the OCS (Pension) Rules, 1992 within a period of six months from the date of receipt of a copy of this order, failing which the proceeding shall be deemed to have been dropped.”

4. It is submitted that in spite of such order passed by the learned Tribunal the proceeding was never finalized and therefore in view of the said order the proceeding is treated to have been dropped.

5. Mr. Rath, learned Sr. Counsel submitted that in spite of such order and without complying the same when the retiral benefits of the Petitioner was not released the present writ Petition was filed with the following prayer:-

“Under the above circumstances, it is therefore, humbly prayed that this Hon'ble Tribunal be graciously pleased to issue direction to the opposite parties to release the retirtual dues of the petitioner, i.e. Pension, Provident Fund, Gratuity and Leave Salary, etc. and since the entitlement of the petitioner has not been acted upon by the opposite parties for release of the same to the petitioner, the petitioner be paid 18% interest on such dues of the petitioner and the same be paid without any further delay.

And this Hon'ble Tribunal be further pleased to direct the opposite parties to go on releasing the pension of the petitioner regularly since the petitioner is a retired government employ and is fully dependent on the pension amount for his survival and survival of his family.

6. Even though a counter has been filed by the O.P. No. 4, but no submission has been made with regard to conclusion of the proceeding in terms of the order passed under Annexure-1. There is also no submission with regard to challenge being made to the said order by the State-Opp. Party.

7. In view of the clear order passed by the learned Tribunal under Annexure-1, this Court while holding the proceeding initiated against the Petitioner to have been dropped, directs the Opp. Parties to release all the retiral benefits as due and admissible within a period of three (3) months from the date of receipt of this order.

8. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha

