

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.3488 of 2017

Basanta Kumar Mohanty **Petitioner**

-versus-

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

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
08.12.2022

Order No

- 03.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. L.K. Mohanty, learned counsel for the Petitioner and Mr. D.K. Mohanty, learned Addl. Standing Counsel appearing for the Opp. Parties.
3. Even though the writ petition was filed with various prayers, but it is submitted that during pendency of the matter the Petitioner was sanctioned with the final pension and gratuity, which was released in his favour on 07.01.2021. But it is contended that even though the Petitioner retired from his service on 30.04.1999 and the proceeding initiated against him on 19.02.1997 was dropped vide order dtd.05.05.2012, but the pensionary benefits and the retirement gratuity were never released in his favour till 07.01.2021. Accordingly, it is contended that for such admitted delay with regard to payment of final pension and gratuity, the Petitioner is entitled to get interest on the said amount.

4. In support of his aforesaid submission Mr. Mohanty, learned counsel for the Petitioner relied on a decision of this Court reported in 2021 (III) ILR-CUT-274. This Court relying on the decision of the Hon'ble Apex Court in Para 14 has held as follows:-

“14. Considering the factual aspect vis-à-vis the law decided by the apex Court as well as this Court, mentioned supra, it can be irresistibly concluded that delay in payment of arrear salary for the period from 01.01.1996 to 08.06.1999 is admitted and the fact, that the other similarly situated employees have already received arrear salary in time, is also not disputed by the opposite parties. Therefore, the opposite parties are liable to pay interest @ 12% per annum, as claimed in the writ petition by the petitioner, as delay is attributable to the opposite parties, but not to the petitioner. As such, in the meantime, the petitioner has retired from service on attaining the superannuation. Consequentially, this Court directs the opposite p pay the interest @ 12% per annum on account of delay for the period 01.01.1996 to 08.06.1999 amounting to Rs.73,716/- and other consequential benefits incidental thereto within a period of four months from the communication of this judgment.”

5. Similarly Mr. Mohanty also relied on another decision of this Court reported in 2021 (III) ILR-CUT-60. In the said reported decision, this Court in Para 20 has held as follows:-

“20. In view of the factual matrix and propositions of law, as discussed above, and applying the same to the present context, there is no iota of doubt with regard to entitlement of the petitioner for claim of interest for delayed payment of pensionary benefits granted to him. Therefore, this Court unequivocally holds that the petitioner is entitled to get interest @ 18% per annum for delayed payment of pensioanry dues, including GPF amount admissible to him. Such amount should

be calculated and paid to the petitioner as expeditiously as possible, preferably within a period of four months from the date of communication of this judgment.”

6. Relying on the aforesaid decisions, Mr. Mohanty, learned counsel for the Petitioner contended that in view of the admitted delay in releasing the final pension and gratuity the Petitioner is also entitled to get interest @ 18% per annum.

7. Mr. D.K. Mohanty, learned Addl. Standing Counsel on the other hand made his submission basing on the stand taken in the counter affidavit. It is contended that even though the proceeding initiated against the Petitioner in the year 1997 was dropped on 05.05.2012, but the Petitioner could not be sanctioned with the final pension and retirement gratuity because of non-submission of the pension papers and other relevant documents.

8. In support of the same Mr. Mohanty, learned ASC brought to the notice of this Court the communication issued by the O.P. No. 2 on dt.16.01.2019, wherein the Petitioner was directed to furnish certain documents for finalization of his claim to get the final pension and retirement gratuity. Accordingly, it is contended that since the Petitioner did not submit the pension papers and other relevant documents in time, the matter was delayed and no latches can be attributed to the Opp. Parties for such delayed payment of pension and other pensionary benefits including retirement gratuity.

9. Having heard learned counsel for the Parties and taking into account the materials available on record, this Court finds that the Petitioner though was superannuated from his service on 30.04.1999, the proceeding initiated against him on 19.02.1997 was dropped vide order dtd.05.05.2012. After such disposal of the

proceeding instead of taking action to pay the retiral benefits as due and admissible, the same was never paid. The documents relied on by Mr. Mohanty vide Annexure-19 to the counter is of no help as the said letter was issued only on 16.01.2019 i.e. after 7 years of the disposal of the proceeding. Therefore, the delay in payment of the pensionary benefits cannot be attributed due to the laches of the Petitioner.

10. This Court from the materials available on record finds that it is a clear case where the Petitioner has been unnecessarily harassed for a long period. The Petitioner though retired from service on 30.04.1999, but the final pension and retiral gratuity was only paid on 07.01.2021 i.e. after more than 22 years and also after 9(nine) years of the disposal of the proceeding. Hence, relying on the decisions of this Court as cited (supra), this Court is inclined to allow interest on such delayed payment of pension and retirement gratuity. While holding so, this Court directs O.P. No. 2 to calculate interest @ 6% per annum payable from the date of entitlement of the Petitioner till it is finally paid on 07.01.2021 all through. The amount towards interest be calculated and disbursed in favour of the Petitioner within a period of three (3) months from the date of receipt of this order.

11. The writ petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha