

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C (OAC) No.3176 of 2017

Sridhara Pradhan

.... Petitioner

Mr. S. Patra, Advocate

-versus-

State of Odisha & others

.... Opposite Parties

**Mr. H.K.Panigrahi,
Addl. Govt. Advocate**

CORAM:

JUSTICE SASHIKANTA MISHRA

**ORDER
25.8.2022.**

Order No.

10.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned Addl. Government Advocate for the State.
3. The Petitioner has approached this Court seeking the following relief:-

“The Opposite Parties be directed to pay gratuity amount to the applicant with penal interest as per law. The Opposite Parties be directed to pay cost for unnecessary harassment to a senior citizen.”

4. The Petitioner joined Government service as a Constable on 12th February, 1979 in the district of Sundargarh. In the year 2008, he was promoted to the post of A.S.I. While working as

such he was requested vide letter dated 14th March, 2013 to submit his documents for preparation of pension papers in view of his ensuing retirement i.e. 31st March, 2013. The Petitioner claims to have submitted all the necessary papers before the S.P. (Vigilance), Cuttack and retired from Government service on 31st March, 2013 as A.S.I. of Police (Vigilance). The Petitioner's pension was sanctioned as per letter dated 13th May, 2015, copy of which is enclosed as Annexure-3 to the Writ Petition. However, his gratuity amount was withheld. The Petitioner approached the authority time and again requesting for release of the gratuity, but the same was not heeded to. Ultimately, by letter dated 30th November, 2016 issued by the Principal Accountant General (A & E), Odisha, Bhubaneswar, it was intimated that the gratuity amounting to Rs.259710/- had been withheld for want of No Due Certificate (N.D.C) from the Pension Sanctioning Authority (PSA) and for excess pay amounting to Rs.11570/- instead of Rs.11140/- paid to him. The N.D.C. was not issued to the Petitioner on the ground that he had not handed over charge of the case records dealt with by him in the court of learned C.J.M., Cuttack. However, no action was taken for which he approached the erstwhile Odisha Administrative Tribunal in O.A.No.3176(C)/2017, which has since been transferred to this Court and registered as the instant Writ Petition.

5. Counter affidavit has been filed on behalf of Opposite Party Nos.2 and 3 mainly stating that the Petitioner did not hand over

the charge of case records despite repeated instructions. Further, it was found that excess payment amounting to Rs.2580/- had been made in his favour between January and March, 2013 and therefore, the said amount is required to be deducted from his retirement dues.

6. The Petitioner filed a rejoinder categorically stating that he had handed over all the records, case diary and documents to the Ex-P.I. (Vig.), Cuttack at the time of inspection as per order of learned C.J.M., Cuttack.

7. An additional affidavit was filed by the Petitioner enclosing the copy of letter dated 8.7.2022 enclosed as Anenxure-8 whereby the S.P.(Vig.), Cuttack Division instructed him to hand over the seizure list and memorandum dated 5th November, 2008. It is submitted by the learned counsel for the Petitioner that the said case records had already been handed over to the succeeding P.I., who in turn had handed over the same to the Bench Clerk of learned C.J.M., Cuttack as per order of the C.J.M. Accordingly, as per letter dated 25th November, 2013, 34 case records were handed over which includes the case records of VGR No.47/2008, which was received by the Officer of the C.J.M., Cuttack on 28th October, 2013. It is further submitted that the Petitioner has also deposited the excess payment of Rs.2580/- as evident from the receipt and letter dated 25.7.2022. Since the defects pointed by the Principal Accountant General (A & E), Odisha appear to have

been fully removed, there is no reason to withhold the gratuity dues of the Petitioner any further.

8. For the above reasons therefore, the Writ Petition is disposed of with a direction to the Opposite Party-authorities to take into account the fact that the excess amount has been deposited by the Petitioner and the case record in question has already been handed over at the relevant time and to issue necessary N.D.C. in favour of the Petitioner for release of the gratuity amount by the appropriate authority.

9. The above exercise shall be concluded within a period of four weeks from the date of communication of this order or production of certified copy thereof by the Petitioner failing which, the amount shall carry interest @ 12% per annum from the said date till payment of the entire dues.

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

AKB

(Sashikanta Mishra)
Judge