

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C. (OAC) No.2498 of 2013

Maheswar Khilar

....

Petitioner

None

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. R.N. Acharaya, Standing
Counsel for S & ME

CORAM:

JUSTICE M.S. RAMAN

ORDER

20.10.2022

Order No.

- 02.** **1.** The Original Application No. 2498 of 2013 was filed before the State Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OAC) No. 2498 of 2013.
- 2.** The Petitioner having been retired from Government service on 31st January, 2011 on attaining superannuation, claims to be entitled for an amount of Rs.8,15,486/- towards provisional pension, DCRG, CVP, Unutilized leave dues.
- 3.** Counter has been filed on behalf of the Opposite Party No.4-the Block Education Officer, Rajnagar, in the district Kendrapara. Paragraph Nos. 4,5,6 & 7 of said counter is extracted hereunder:-

“4. That the brief facts of the case is that the applicant was appointed as an Asst. Teacher on 28.3.1974 under the jurisdiction of District Inspector of Schools, Pattamundai in Rajangar Block. When the

applicant was continuing as such, he was promoted to the post of Headmaster and posted at Nurgaon Nodal Primary School on 8th December, 2010. After attaining the age of superannuation, the applicant was retired on 31st January, 2011 and accordingly, his entitlement as due and admissible was paid to him through Sub-treasure Office, Rajnagar. After being retirement from service in Form No.13 under Rule-3 Aided Educational Institution Employees Retirement Benefit Rule, 1981 and Aided Educational Institution Employees Aided Primary Teachers Retirement Benefit Rules, 1992. Hence, this Original Application.

5. That it is respectfully submitted that the applicant was retired from Govt. Service on 31st January, 2011 after that he claimed retirement benefits before the Block Development, Rajnagar in the prescribed Form No.13 for sanction of Provisional Pension and Provisional DCRG. The Block Development Officer, Rajnagar has sanctioned Provisional Pension @ Rs.6,900/- only per month with TI with effect from 1.2.2011 and provisional DCRG amounting to Rs.2,26,700/- only vide office order No.684, dated 29th February, 2012. The true copy of office order No.684, dated: 29.2.2012 is annexed herewith as Annexure-A/4.

It is pertinent to mention here that the Block Development Officer, Rajnagar has no power for sanction of provision DCRG in favour of the Primary School Teachers. He was only authorized sanction Provisional Pension of retired Primary School Teachers.

6. That it is respectfully submitted that the applicant has received Rs.2,26,700/- as provisional gratuity along with pensionary benefits through Block Development Officer, Rajnagar without knowledge of the District Inspector of Schools, Pattamundai who is the authority for sanctioning of the gratuity, pensionary benefits etc. being the appointing authority.

7. That it is further respectfully submitted that after sanctioned of final pension and other retirement benefits in favour of the applicant by the Controller of Accounts, Odisha, Bhubaneswar, the then Block

Development Officer, Rajnagar issued a drawal particulars of the applicant to Sub-Treasury Officer, Rajnagar mentioning Rs.2,76,700/- instead of Rs.2,26,700/- towards provisional gratuity of the applicant vide L.No. 125, dated 25th January, 2013 of the Block Development Officer, Rajnagar. As a result of which, the Sub-treasury Officer, Rajnagar recovered the excess amount of Rs.49,000/- from the retirement benefits of the applicant. The true copy of L. No. 125, dated 25th January, 2013 of the Block Development Officer, Rajnagar is annexed herewith as Annexure-B/4.”

4. None appeared for the Petitioner at the time of call.
5. In such view of the factual position as narrated in the counter and not disputed by the petitioner, the writ petition does not deserve consideration on merit. Hence the writ petition is dismissed.

(M.S. Raman)
Judge

Laxmikant

