

IN THE HIGH COURT OF ORISSA AT CUTTACK
CONTC (CP) No.188 of 2011

Chintamani Padhan

....

Petitioner
None

-versus-

Ramakrishna Purohit

....

***Contemnor/
Opposite Party***
Mr. L. Samantaray, AGA

CORAM:
JUSTICE M.S. RAMAN

ORDER

18.10.2022

Order No.

05.

1. The Original C. P.(C) No.188 of 2011 was filed before the Odisha Administrative Tribunal, Bhubaneswar Bench, Bhubaneswar. After its abolition, the same has been transferred to this Court which is renumbered as CONTC (CP) No. 188 of 2011.

2. The petitioner, Primary School Teacher, joined the Government service on 6th January, 1971 and retired on attaining the age of superannuation on 31st January, 2010. The grievance of the petitioner was that he was not granted pension and retiral benefits in terms of the Odisha Revised Scale of Pay Rules, 1998. The petitioner was also aggrieved by non-regularization of certain periods of his service. While disposing of the Original Application No.7 of 2011, Odisha Administrative Tribunal *vide* order dated 3rd February, 2011 passed the following order:

“The applicant, who was working as a Primary School Teacher in Laxmimunda Govt. Primary School under the administrative control of the District Inspector of Schools, Sonapur and retired from his services on attaining the age of superannuation on 31st January, 2010, has filed

this O.A. for a direction to the respondents/authorities to regularize the service of the applicant, revise his pay as O.R.S.P. Rules and for disbursement of his pension and pensionary benefits.

Heard Mr. Mohapatra, learned counsel for the applicant and Mr. Bisoi, learned Standing Counsel S & ME.

Mr. Mohapatra, learned counsel submits that for certain period during the tenure of service of the applicant, because of his transfer from place to place his service book has not been up-dated and since the services of the applicant for that period has not been regularized by updating his service book he was not getting his regular pay as due and admissible to him, so also has been deprived of getting benefit of subsequent pay revision as per ORSP Rules, 1998 and 2008. With regard to the grievances made by the applicant in this O.A. he has already made a representation to respondent no.3 highlighting all his grievances. since the applicant is a retired person and the subject matter of this case is relating to his pre-retiral and post-retiral benefits, if at this stage the O.A. is disposed of only with a direction to respondent no.3 to consider the grievances of the applicant as has been made in his representation dtd. 16.4.2010 (Annexure-4), treating the contents of the O.A. along with its Annexures as a part thereof and dispose of the same by a reasoned order within a time stipulated the grievances of the applicant shall be fully meted out. The learned counsel further submits that period to considering the representation of the applicant, the respondent no.3 may be directed to take appropriate steps for up-dating the service book of the applicant for the period which has not been up-dated and accordingly regularize his service book for the entire period of service rendered by him, so also disburse the differential amount of salary as due and admissible to him as per the revision of Pay Scale Rules which came into force during the tenure of his services and also sanction and disburse his pension and other retiral dues on the basis of such last pay drawn. The learned counsel for the applicant also files a memorandum to that effect in Court today.

Mr. Bisoi, learned Standing Counsel submits that the O.A. may be disposed of on the basis of submissions made by the learned counsel for the applicant without any observation on merit of the case.

In view of the above, the respondent no.3 is directed to consider the grievances of the applicant as has been made in his representation dtd. 16.4.2010 (Annexure-4) treating the contents of the O.A. along with its Annexures as a part thereof and dispose of the same within a period of two months from the date of receipt of the copy of this order and communicate the same to the applicant immediately thereafter. If the service book of the applicant has not been up-dated, if necessary, he shall take

immediate steps for up-dating the service book of the applicant so also regularizing his entire period of service as per rules within a period of one month. If the decision goes in favour of the applicant, the consequential benefits for pre-retiral and post-retiral period be extended in his favour within a period of another two months from the date of such order fixing the pay of the applicant as per O.R.S.P.O. Rule, which came into force in the meantime.

The respondent no.3 is at liberty to take his independent decision in the matter on its own merit and dispose of the representation of the applicant in accordance with law, for which this Tribunal has expressed no opinion.

The O.A. is accordingly disposed of.

Order be communicated to the respondents along with the paper books at the cost of the applicant forthwith."

3. Since there was non-compliance of said order, the petitioner was constrained to approach the learned Administrative Tribunal in C.P. No.188 of 2011 converted as CONTC(CP)No.188 of 2011. The learned Tribunal vide order dated 10th January, 2013 passed the following order in the aforesaid Contempt Petition:

"When this matter is taken up Mr. Bisoi, learned Standing Counsel, S & ME appearing on behalf of the respondent No.3/District Inspector of Schools, Sonapur submits that a show cause affidavit has been filed by the respondent No.3/District Inspector of Schools, Sonapur since 27.7.2012 and it has been categorically stated therein that order relating to disposal of representation of the applicant has already been complied as per order dated 7.7.2012 (Ext.-I to show cause). In the said affidavit it has been stated that the applicant had never filed any representation to the District Inspector of Schools, Sonapur with regard to his claim. After correspondence with the Block Development Officer, Tarava relating to services of the applicant it was found that he was absent from duty since 18.11.1996 to 02.01.1997 and again he joined on duty on 17.01.1997 in Laxmimunda Primary School under Tarava Block. But from 18.1.1997 till the date of his retirement i.e. 31.01.2010, he was absent from the duty as per the report of the Headmaster as S.I. of Schools, Tarava. In that view of the matter, unless the applicant co-operates it will be difficult on the part of the respondent authorities for regularizing the period of absence of the applicant.

However, since a detail order has been passed by the District Inspector of Schools, Sonapur on

7.7.2012 which has also been communicated to the Block Development Officer, Tarava, so also to the applicant, for information and necessary action the applicant is at liberty to pursue the matter at his end for regularization of his absence period i.ee the period when he was absconding from his duties for number of years and he has not approached the authority concerned after his retirement for grant of pension and retiral benefit. Learned counsel further submits that the applicant has not filed any rejoinder to the show-cause/compliance affidavit filed by the respondent No.3.

In that view of the matter the C.P. may kindly be dropped with the observation that the applicant is at liberty to apply the competent authority for regularization of his services during his absence/absconding period and unless that is done the applicant shall not be entitled to get any retiral benefit.

Considering the submissions made by the learned standing counsel and after going through the contents of the compliance affidavit and keeping in view of the fact that the respondent No.3 in compliance with the order of this Tribunal, in our considered view unless the applicant files appropriate application before the respondent authorities for regularization of his period of absence except provisional pension nothing can be disbursed in favour of the applicant.

In view of the above, the Block Development Officer, Tarava and the District Inspector of Schools, Sonapur are directed to issue appropriate direction to the applicant to comply with all the formalities as it would be required at his end and only thereafter appropriate order can be passed in the matter as it would be deemed fit and proper in the facts and circumstances of the case.

Mr. Mohapatra, learned counsel for the applicant is also directed to obtain instruction from the applicant relating to averments made in the show cause affidavit and if necessary file a detail affidavit in this regard before this Tribunal within a period of four weeks hence.

Copy of this order be communicated to the Block Development Officer, Tarava, District Inspector of Schools, Sonapur, so also to the applicant himself for compliance.

A copy of his order be handed over to Mr. Bisoi, learned Standing Counsel, S & ME, for compliance. ”

4. At the time of hearing today, none has put in appearance for the petitioner. Therefore, it is construed that the petitioner is no more interested in pursuing the matter.

It is noteworthy to refer to the observation contained in order dated 10th January, 2013, as extracted herein above, that it has been clearly stated by the learned Administrative Tribunal that unless the petitioner filed the appropriate application before the authority concerned for regularization of period of absence except provisional pension nothing could be disbursed in favour of the petitioner. Therefore, there is no deliberate or willful disobedience of order passed.

5. Thus, the Contempt Petition is dismissed.

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