

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.1140 of 2013

Dambarudhar Majhi

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

31.01.2023

Order No

02.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. The petitioner has filed this writ petition seeking direction to quash the rejection order dt.12.06.2012 under Annexure-13 by bringing him to regular establishment for the purpose of getting pensionary benefits & accordingly sanction and disburse the pension and pensionary benefits to the Petitioner and to regularize his services.

3. Mr. S.P. Pati, learned counsel for the petitioner contended that similar benefit has been extended to one Narusu Pradhan. As such the petitioner having stood in similar footing, he is entitled to grant all the benefits.

4. Learned State Counsel for the State contended that the petitioner has already retired from service and he was working as Dozer Operator. He further contended that the claim of the petitioner cannot sustain in the eye of law.

5. It is contended that one Narusu Pradhan, a similar circumstanced person like the petitioner had filed O.A. No. 1189 (C) of 2006

praying for retrial benefits. The Tribunal allowed the retrial pensionary benefits in his favour vide order dated 11.06.2009, which was challenged by the State before this Court in W.P.(C) No. 5377 of 2010. This Court dismissed the writ petition on 19.12.2011 and confirmed the order passed by the Tribunal. Thereafter against the order passed by this Court, the State has preferred SLP in Civil Appeal No. 22498 of 2012, the same was also dismissed on 07.01.2013.

6. In that view of the matter, the relief claimed by the petitioner is fully covered by the judgment of the Tribunal passed in the case of *Narusu Pradhan*, which has been confirmed by this Court as well as the apex Court. Thus the petitioner, having stood in similar footing, is entitled to get the benefits which have been extended in favour of *Narusu Pradhan* and all the differential benefits and consequential benefits, as due and admissible to him, shall be granted to him in accordance with law within a period of four (4) months from the date of communication of this order. While holding so, this Court is inclined to quash the impugned order passed on 12.06.2012 under Annexure-13 and also observe that on being brought over to the purview of OCS (Pension) Rules, 1992 the Petitioner will refund the amount drawn towards EPF pension and such undertaking be given by the Petitioner before the Authority.

7. With the above observation & direction, the writ petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Sneha