

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35733 of 2021

Nakul Pan

....

Petitioner

Mr. Laxmikanta Mohanty, Advocate

-versus-

State of Odisha and others

....

Opposite Party

Mr. YSP Babu, AGA

Mr. Sudhir Kumar Patra, Advocate for O.P. No.5

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

08.07.2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner, learned counsel for the State and learned counsel appearing for the Opposite Party No.5. Perused the records.
3. The present writ petition has been filed with the following prayer:

“It is, therefore, prayed that this Hon’ble Court may graciously be pleased to issue notice to the opp. Parties calling upon them to file show cause as to why the order dated 3.11.2020 issued by the opp. Party no.1 under Annexure-11 shall not be quashed and after hearing the parties be pleased to quash the order dated 3.11.2020 under Annexure-11. A further direction be issued to opp. Parties to finalise and revise the pension and pensionary benefits of the petitioner as per pay fixation order dated 8.8.2020 under Annexure-10 and thereafter release the same as per Rule 47(2)(a) of the OCS (Pension) Rule 1992 by calculating their pension as epr last pay drawn with 9% interest thereon; within a date to be fixed by this Hon’ble Court.

And pass any other order/orders, direction/directions as this Hon'ble Court may deem fit and proper.”

3. It is submitted by learned counsel for the Petitioner that Petitioner is not being given the service benefits pursuant to order dated 3.11.2022 under Annexure-11. However, it is submitted by learned counsel for the Petitioner that very same order has been quashed by this Court in the case of ***Sanju Dei vs. State of Odisha*** passed in ***W.P.(C) No.32191 of 2020*** vide order dated 7.3.2020.

4. In such view of the matter, learned counsel for the Petitioner submits that nothing remains to be adjudicated here. Therefore, the Authority be directed to consider the case of the Petitioner in the light of the order passed by this Court in the case of ***Sanju Dei (supra)*** within a stipulated period of time.

5. Learned counsel for the State on the other hand does not have any objection if the case of the Petitioner is considered in the light of the law laid down in ***Sanju Dei (supra)*** within a stipulated period of time. Further he submits that a direction be issued to the Authority to examine the Petitioner's case in the light of ***Sanju Dei (supra)*** and examine as to whether the case of the Petitioner is similar to ***Sanju Dei's case (supra)*** and whether he is entitled for the said benefits or not ? If the answer is in the affirmative, the Authority may be directed to release the same in accordance with law.

6. Having heard learned counsel for the parties, this Court is of the considered view that the order dated 03.11.2020 under Annexure-11, which has been set aside by this Court in the case of ***Sanju Dei (supra)***, need not be adjudicated again in this case and further the same shall not stand on the way of the Petitioner for

getting the financial benefits. Accordingly, Director of Public Health, Odisha, Opposite Party No.3 is directed to consider the case of the Petitioner taking into consideration the order of this Court in the case of ***Sanju Dei (supra)*** as well as the order dated 24.6.2020 under Annexure-9 and disposed of the same within two months. Further in the event if it is found that the Petitioner's case is covered by the order delivered by this Court in ***Sanju Dei (supra)***, Opposite Party No.3 shall do well to sanction and disburse the same in favour of the Petitioner within a period of two months from the date of taking a decision in the matter, as has been directed hereinabove.

7. With the aforesaid direction, the writ petition stands disposed of.

8. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge