

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.30980 of 2022

Ganeswara Choudhury

....

Petitioner

Mr.Arun Kumar Achaya, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr.T.K.Patnaik, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.11.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel.
3. The present writ application has been filed with the following prayer:

“It is, therefore, most humbly prayed that this Hon’ble Court may graciously be pleased to admit the writ application, to issue Rule Nisi calling upon the Opposite Parties to show cause as to why the prayers made hereunder be not allowed. Upon showing insufficient cause/no cause make the said Rule absolute, issue writ/writs in the nature of

Mandamus directing the opposite Party No.1 & 2 to sanction and disburse the unutilized leave salary of the Petitioner keeping in view the decision of the learned Tribunal at Annexure-7 series and the decision of Hon’ble Apex Court in the matter of State of Jharkhand vrs. Jitendra Kumar Srivastava reported in (2014) 2 SCC (L&S) 570 within a time to be stipulated by Hon’ble Court;

And/or may pass such other writ/writs, order/orders, direction/directions as this Hon’ble Court may think fit and proper for the ends of justice”

4. It is submitted by the learned counsel for the Petitioner that the grievance of the Petitioner in the present writ application is that during pendency of the Disciplinary Proceeding the Petitioner has not been disbursed the cash components of unutilized leave salary by his employer. In this context, learned counsel for the Petitioner draws the attention to letter dated 28.05.2021 written by the Collector, Deogarh to the Joint Secretary to Government, Food Supplies & Consumer Welfare Department under Annexure-5. Perusal of the said letter, it appears that the case of the Petitioner has been recommended by the Collector to the Government for sanction and disbursement of the cash equivalent to leave salary in favour of the Petitioner. It is further contended by the learned counsel for the Petitioner that the Government has not taken any action whatsoever on the letter of the Collector, Deogarh dated 28.05.2021 under Annexure-5. In such view of the matter, learned counsel for the Petitioner seeks for a direction to the Government, Opposite Party No.1 to take a decision on the recommendation of the Collector & District Magistrate, Deogarh, Opposite Party no.3.

5. Learned Additional Standing Counsel on the other hand has no objection if a direction is given to the Opposite Party No.1 to consider the recommendation of the Collector under Annexure-5 in accordance with law within a stipulated period of time.

6. Having heard learned counsel for the parties and upon a careful examination of the contentions and materials placed before this Court, this Court deems it proper to dispose of the writ application at the stage of admission by directing the Opposite Party No.1 to consider the recommendation made by the Collector & District Magistrate, Deogarh in his letter No.498 dated 28.05.2021 under Annexure-5 and shall take a decision within a period of six weeks

from the date of production of certified copy of this order within two weeks. Further while considering the case of the Petitioner as has been recommended by the Collector & District Magistrate under Annexue-5 the Opposite Party No.1 shall also consider the Resolution of the Government dated 26.03.2015 under Annexure-8 as well as the decision of this Court in W.P.(C) No.3442 of 2016 disposed of on 28.02.2017. Let the Petitioner approach the Opposite Party No.1 along with certified copy of this order and Annexures-8 & 9 within two weeks from today. Further, it is clarified that it is open for the Petitioner to file any other documents in support of his contention along with the certified copy of this order while approaching Opposite Party No.1.

7. With the aforesaid observation and direction, the writ application stands disposed of.

8. Issue urgent certified copy of this order as per Rules.

RKS

