

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OA) No.710 of 2019

Sri Ananda Gopal Roy

....

Petitioner

-versus-

**State of Orissa, represented
through the Engineer-in-
Chief-cum-Secretary to
Govt., Works Department,
Odisha, Bhubaneswar and
others**

....

Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
12.10.2022**

Order No

01. 1. This matter is taken up through hybrid mode.

2. Heard Mr. Manas Pati, learned counsel appearing for the Petitioner and Mr. Y.S.P. Babu, learned Additional Government Advocate appearing for the State-Opposite Parties.

3. It is submitted by Mr. Manas Pati, learned counsel appearing for the Petitioner that by the time the Petitioner retired from service on 31.8.2003, there was no proceeding against him, as cognizance was taken in

the vigilance proceeding only on 30.01.2006 and charge was framed on 04.02.2012. It is accordingly submitted that since as on date of retirement of the Petitioner there is no proceeding pending against him in the eye of law, the Petitioner is entitled to get all his retiral benefits. It is also submitted that the claim of the Petitioner was rejected vide order dated 24.01.2019 by the Under Secretary to Government, Government of Odisha, Works Department under Annexure-3 to the writ petition on the sole ground that vigilance proceeding is pending against the Petitioner since 20.02.2001. Even though notice was issued to the Opposite Parties, but counter affidavit has not been filed by the State-Opposite Parties.

4. This Court after going through the materials available on record finds that though the vigilance proceeding was initiated against the Petitioner on 20.02.2001, but cognizance was taken only on 30.01.2006 and charge was framed on 04.02.2012. Therefore, as on date of retirement of the Petitioner, no proceeding was pending against him and accordingly, the Petitioner is entitled to get all his retiral benefits.

5. Therefore, this Court, while quashing the communication/order dated 24.01.2019 passed by the Under Secretary to Government, Government of Odisha, Works Department under Annexure-3, directs the Opposite Parties to release the pensionary benefits of the

Petitioner as due and admissible within a period of three months from the date of receipt of this order.

6. However, it is observed that the said sanction and release of the pensionary benefits shall be subject to final outcome of the vigilance proceeding in Balasore Vigilance P.S. Case No.10 dated 20.02.2001.

7. With the aforesaid observation and direction, this writ petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Debasis

