

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OA) No.2103 of 2019

Ratnakar Sahoo & Ors.

....

Petitioners

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

13.10.2022

Order No

- 01.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. G.K. Nanda on behalf of Mr. I. Sahoo, learned counsel for the Petitioners and Mr. R.N. Mishra, learned AGA appearing for the Opp. Parties.
3. The present writ Petition has been filed challenging the order dtd.31.05.2018 passed by the Govt.-O.P. No. 1 under Annexure-9.
4. It is submitted that the Petitioners while continuing in the Work Charged Establishment, they were retrenched in the year 2003 with payment of the gratuity amount as due and admissible by then as well as one month's pay in lieu of notice and retrenchment compensation.
5. Mr. Nanda, learned counsel for the Petitioner further submitted that subsequently in the year 2012 when they were reengaged, as directed, they refunded the entire amount received towards gratuity and one month's salary as well as retrenchment compensation by Demand Draft drawn in favour of the Executive Engineer and the said fact is reflected under Annexure-5 series.

6. It is also submitted that subsequently when the Petitioners were allowed to retire on attaining the age of superannuation and the gratuity amount as due and admissible were not released, they approached the learned Tribunal in O.A. No. 1780 of 2017. Learned Tribunal vide its order dtd.31.10.2017 under Annexure-8 disposed of the said Original Application with a direction on the O.P. No. 1 to take a decision on the claim of the Petitioners.

7. It is submitted that even though the amount received by the Petitioners towards gratuity was refunded and the said fact is reflected in Annexure-5 series, but the O.P. 1 without proper appreciation of the same passed the impugned order mentioning that the Petitioners are not entitled to get the gratuity amount as they have not refunded the gratuity received in the year 2003. Accordingly, it is submitted that necessary direction be issued to the Opp. Parties to release the gratuity amount as due and admissible in favour of the Petitioners.

8. Mr. Mishra, learned AGA on the other hand submitted that since in the year 2003 when the Petitioners were retrenched, they were paid with the gratuity, the Petitioners are not entitled to get any further amount towards that.

9. Heard learned counsel for the Parties. Perused the materials available on record. This Court after going through the same finds that on their reengagement in the year 2012, all the Petitioners refunded the entire gratuity amount and other dues they had received and the said fact is reflected in the documents annexed vide Annexure-5 series.

10. Therefore, it is the view of this Court that the Opp. Party No. 1 without considering that aspect has rejected the Petitioner's claim vide the impugned order. Accordingly, this Court is inclined to quash the impugned order dtd.31.05.2018 under Annexure-9 and while quashing the same, directs the O.P. No. 1 to release the gratuity amount of the Petitioners as due and admissible taking into account the entire period of service rendered by them in the Work Charged Establishment. The said amount shall be released in favour of the Petitioners along with interest @ 6% per annum from the date of entitlement till its payment within a period of four (4) months from the date of receipt of this order. Petitioner No. 1 is directed to provide a copy of this order before the O.P. No. 1 within a period of seven (7) days from the date of receipt.

11. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha