

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO No. 334 of 2021

Sukanta Kumar Jena **Appellant**

Mr. K.K. Swain, Advocate

-versus-

State of Odisha & others **Respondents**

Mr. Dhananjay Mund, Addl. Govt.
Advocate for respondents 1 and 2

CORAM:
JUSTICE M.S. SAHOO

ORDER
03.03.2022

Order No.

05.

This matter is taken up through hybrid mode.

The matter was heard at some length on 16.02.2022 and the following order was passed, relevant portion is reproduced herein:-

“Learned Addl. Govt. Advocate is directed to obtain instruction as to why the retiral dues of the appellant is not to be disbursed as per his last pay drawn, as per the applicable Government Resolution/order, which shall be subject to the further orders to be passed in G.I.A. Case No.55 of 2021 of the learned State Education Tribunal, Bhubaneswar.

List on 28th February. 2022.”

Learned Addl. Govt. Advocate on instruction submits that as on date, pension or any other retiral dues cannot be paid to the appellant in view of pendency of the G.I.A. Case No.55 of 2021, wherein the appellant has challenged the cancellation order for sanction of Grant-in-Aid. It is further submitted that unless it is finally decided which notification of Grant-in-Aid is applicable to the petitioner,

a final determination cannot be made by the authority regarding the retiral dues i.e. to be paid.

Learned counsel for the appellant submits that in any event, the appellant succeeded before the learned Tribunal in the earlier in G.I.A. Case No.533 of 2014 that was disposed of vide judgment and order dated 10.04.2018 and therefore he is entitled for pension and other retiral dues.

Learned counsel for the appellant submits that after the last order of this Court, some further developments have happened in the pending GIA Case No.55 of 2021 before the learned State Education Tribunal, Bhubaneswar. It is submitted that the matter was heard in part on 22.02.2022 and the next date of listing is 09.03.2022. It is submitted that without prejudice to the rights and contentions of either of the parties before the learned Tribunal, the State Government may be directed to release the pension of the petitioner as applicable, due and admissible so that that the petitioner is not put any unnecessary hardship.

Learned Addl. Govt. Advocate, very fairly submits that the petitioner can be paid the amount as applicable, due and admissible without prejudice to the rights and contentions of either of the parties.

Having heard learned counsel for the parties, the present FAO is disposed of directing the respondents-authorities to release the pension to the petitioner as would be applicable under law, due and admissible without prejudice to the rights and contentions of either of the parties in the pending GIA Case No.55 of 2021.

In view of the fact that the matter is arising out of an

interim order of the learned State Education Tribunal, parties shall abide by the subsequent order/final order that would be passed by the learned Tribunal.

It is hoped that the learned Tribunal having heard the matter in part may proceed to complete the proceeding as expeditiously as possible as per its hearing roster.

It is clarified that this Court has not expressed any opinion regarding the merits of the case in any manner whatsoever.

Issue urgent certified copy as per rules.

Copy of the order be uploaded.

