IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No. 1093 of 2022

Ramesh Chandra Sarangi ..... ***Petitioner***

Ms. P.P. Rao, Advocate

-versus-

State of Odisha & Ors. ..... ***Opposite Parties***

Mr. C.K. Pradhan, AGA

CORAM:
THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY
ORDER
13.05.2025

Order No. 03

1. This matter is taken up through hybrid mode.

2. Heard learned counsel for the parties.

3. The present Writ Petition has been filed inter alia challenging order dated 03.12.2021 so passed by the Govt.-O.P. No.1 under Annexure-7. Vide the said order, claim of the petitioner to get gratuity of 16 ½ months pay instead of 7 ½ months and for release of the unutilized surrender leave was rejected.

4. Learned counsel for the petitioner contended that since petitioner was not extended with the gratuity as due and admissible and so also the unutilized surrender leave after his retirement, he made a detailed representation before O.P. No.1 under Annexure-5. As the same was not considered, petitioner approached this Court by filing W.P.(C) No.23532 of 2021. This Court vide order dated 13.08.2021 while disposing the Writ Petition, directed O.P. No.1 to take a decision on the said representation available under Annexure-5 in accordance with law.

4.1. It is contended that even though in the impugned order it was clearly admitted that an employee having completed more than 25 years of service, will be entitled to get gratuity which is equal to 7 ½ months pay but taking into account the last salary drawn by the petitioner, petitioner should have been sanctioned with the gratuity amount accordingly.

4.2. But as found from Annexure-4, petitioner was sanctioned with gratuity amount of Rs. 4 lakh 53 thousand which is not equal to 7 ½ months pay of the last salary drawn. It is contended that taking into account the last salary drawn by the petitioner at the time of retirement, petitioner will be eligible to get more amount than what has been sanctioned vide Annexure-4. Since the amount released towards gratuity under Annexure-4 is not the actual entitlement of the petitioner towards his gratuity, the same should have been allowed while considering the claim in terms of the earlier order passed by this Court. But without proper appreciation, claim of the petitioner was rejected vide the impugned order.

4.3. It is also contended that even though petitioner's claim to get the unutilized surrender leave, was also directed to be considered by this Court in its order dated 13.08.2021, but the same was not at all dealt with by O.P. No.1 while dealing with the issue with passing of the impugned order under Annexure-7.

4.4. It is accordingly contended that the impugned rejection so passed by Govt.-O.P. No.1 on 03.12.2021 under Annexure-7 is not sustainable in the eye of law.

5. Learned Addl. Govt. Advocate on the other hand while supporting the impugned order, made his submission basing on the

stand taken in the counter affidavit, so filed by O.P. No.3 on behalf of O.P. Nos.1, 2 and 3. It is contended that petitioner taking into account his qualifying service which exceeds 25 years, is entitled to get 7 ½ months pay towards his gratuity. Claim made by the petitioner to get 16 ½ months pay towards gratuity is not sustainable and accordingly such a claim was rejected vide the impugned order.

5.1. It is however contended that claim of the petitioner to get the benefit of unutilized surrender leave has not been considered by O.P. No.1 while rejecting the claim vide the impugned order under Annexure-7.

6. To the stand taken in the counter affidavit, learned counsel for the petitioner contended that petitioner now confines his prayer to get the gratuity equal to 7 ½ months pay of his last pay drawn. But the amount released towards gratuity under Annexure-4 to the tune of Rs.4,53,000/- is not the gratuity equal to 7 ½ months pay of the last salary drawn.

7. Having heard learned counsel for the parties and considering the submissions made, this Court finds that after his retirement petitioner when was sanctioned with gratuity amount of Rs. 4 lakh 53 thousand and his entitlement towards unutilized surrender leave was not released, he made a representation under Annexure-5. As the same was not considered, petitioner approached this Court by filing W.P.(C) No.23532 of 2021. This Court vide order dated 13.08.2021 under Annexure-6 while disposing the Writ Petition, directed O.P. No.1 to take a decision on the claim of the petitioner as made under Annexure-5.

7.1. As found from the impugned order, petitioner though was found eligible to get gratuity to the tune of 7 ½ months pay having served in the School for more than 25 years, but nothing has been indicated as to whether the amount received by the petitioner towards gratuity as reflected under Annexure-4, is equal to 7 ½ months pay of the last pay drawn. It is also found that claim of the petitioner to get the benefit of unutilized surrender leave, has not at all been considered while rejecting the claim in toto vide the impugned order.

7.2. In view of the aforesaid analysis, this Court is inclined to quash order dated 03.12.2021, so passed by Govt.-O.P. No.1 under Annexure-7. While quashing the same, this Court directs O.P. No.1 to take a fresh decision by confining the entitlement of the petitioner to get the gratuity equal to 7 ½ months pay of the last pay drawn and calculate his entitlement accordingly.

7.3. This Court also directs O.P. No.1 to take a decision with regard to claim of the petitioner to get the benefit of unutilized surrender leave, which was directed to be considered by this Court in W.P.(C) No.23532 of 2021. This Court directs O.P. No.1 to take a fresh decision as indicated hereinabove within a period of 2 (two) months from the date of receipt of this order. Consequential follow up action be taken to release the differential entitlement in favour of the petitioner towards gratuity and the entitlement towards unutilized surrender leave within a further period of 1 (one) month.

8. The Writ Petition accordingly stands disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

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Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 15-May-2025 13:06:16