IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35938 of 2026
CNR No. ODHC010841672026

Nityananda Jena …. **Petitioner**

Mr. S. Jena, Advocate

-Versus-

State of Odisha and others …. **Opposite Parties**

Mr. C.M. Singh, ASC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
06.11.2026

Order No.

01. 1. Heard Mr. Jena, learned counsel for the petitioner and Mr. Singh, learned ASC for the State.

2. Instant writ petition is filed by the petitioner challenging the impugned letter at Annexure-7 and to direct the opposite parties to sanction and release pension and pensionary benefits to him in terms of the Odisha Aided Educational Institutions Employees Retirement Benefit Rules, 1981 (in short the rules) within a reasonable period of time as would be fixed by this Court.

3. The petitioner was appointed as Peon at Annexure-2 series and the post received approval as per Annexure-3 series & 4. Since pension was not allowed under the rules the petitioner approached this Court in W.P.(C) No.34851 of 2025 disposed of vide Annexure-6 series with a direction to the authority concerned to consider the same in view of the decision in **Hemant Kumar Chhotaray-Vrs. State of Odisha**

& others; 2024 Vol.I OLR 709. The submission of Mr. Jena, learned counsel is that the petitioner retired on 30th June, 2025. However, the plea for sanction was rejected vide Annexure-7. On the premise that he was receiving block grant and fixed to remuneration not a regular scale of pay and that the decision in **Hemant Kumar Chhotaray** (supra) has not attained finality in view of pendency of W.A. No. 197 of 2024. The submission of Mr. Jena, learned counsel is that notwithstanding any such appeal filed and presently, awaiting disposal the petitioner could not have been denied pension under the rules. In support of such contention, Mr. Jena, learned counsel such an order of the Apex Court in **Sanjiv Kumar Singh Vrs. The State of Bihar & others** in **Special Leave to Appeal(C) No. 19038 of 2022** dated 24th January, 2023 to contend that mere pendency of an appeal without any interim order therein. Opposite party Nos.1 & 2 shall have to entertain plea for pension and sanction of the same with release of all such pensionary benefits in his favour. Referring to the decision in **Hemant Kumar Chhotaray** (supra), it is contended that a specific direction has been issued by this Court therein to extent the benefit of pension and other pensionary dues as admissible in terms of rule 3 of the Rules. The contention is that the petitioner since similarly circumstanced is entitle to pension and therefore, the impugned decision vide Annexure-7 is not legally tenable.

4. Learned counsel for the State on the other hand submits that he needs instructions to reply however, this Court, is inclined to dispose of the matter on merit since squarely

covered by the decision in **Hemant Kumar Chhotaray** (supra). On merits the objection of learned counsel for the State is that the petitioner is not entitle to any such pension under the rules since worked in an aided High School receiving block grant. The submission is that the reason assigned by opposite party No.1 denying pension and pensionary benefits to the petitioner is perfectly justified and in accordance with law and therefore, calls for no interference.

5. It is submitted to the Court that it has been taken judicial notice of by this Court in **Hemant Kumar Chhotaray** (supra) while extending the pension and pensionary benefits to the petitioners. Having regard to the fact that the petitioner is similarly situated and he is demanding pension under rules and sanction of such pension and pensionary benefits in his favour by referring to the decision in **Hemant Kumar Chhotaray** (supra) and that the same has been denied vide Annexure-7 on the reasons stated. Notwithstanding pendency of W.A. No. 197 of 2024 and in absence of any interim order therein, this Court is of the view that opposite party Nos. 1 & 2 could not have denied such pension to him. In fact, the Apex Court in the SLP (**Sanjiv Kumar Singh Vrs. The State of Bihar & others**) held and observed that mere filing of an appeal shall not operate as a stay referring to Order 41 Rule 5 CPC. In the case at hand, it is informed to the Court by Mr. Jena, learned counsel that there has been no interim order in W.A. No. 197 of 2024. In such view of the matter, having regard to the position of law reiterated by the Apex Court in **Sanjiv Kumar Singh** (supra)

and the fact that the petitioner is similarly placed and he is entitle to pension and pensionary benefits in view of the decision in **Hemant Kumar Chhotaray** (supra) reaches at a conclusion that the impugned order as per Annexure-7 cannot be sustain in law hence, therefore, it shall have to be interfered with and set aside.

6. Accordingly, it is directed.

7. In the result, the writ petition stands disposed of with a direction to opposite party Nos. 1 & 2 ensure sanction and release of pension and pensionary benefits in favour of the petitioner as admissible to him under the rules and to comply the same preferably within a period of eight weeks from the date of receipt of a copy of this order. As a necessary corollary, the impugned order dated 20th March, 2026 as at Annexure-7 of opposite party No.1 is hereby set aside for the reason stated hereinabove.

8. Urgent copy of this order be issued as per rules.

(R.K. Pattanaik)
Judge

Ranjeeta
Signature Not Verified
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Signed by: RANJEETA SAHOO
Reason: Authentication
Location: HIGH COURT OF ORISSA
Date: 12-Nov-2026 15:58:17