
(2003) 12 OHC CK 0001

In the Orissa High Court

Case No : Original Jurisdiction Case No. 2894 of 2002

Banamali Mathan

APPELLANT

Vs

Regional Provident Fund Commissioner and Others

RESPONDENT

Date of Decision : 19-12-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2004) 1 OLR 209

Hon'ble Judges : L. Mohapatra, J

Bench : Single Bench

Advocate : M.K. Khuntia and P.K. Misra, for the Appellant; A.K. Parija, S.P. Sarangi, B. Ch. Mohanty and P.P. Mohanty for O.Ps. 2 and 3, for the Respondent

Judgement

L. Mohapatra, J.—Petitioner, in this writ application, has prayed for a direction to opposite party No. 1 (Regional Provident Fund Commissioner, Rourkela) to settle his pension taking into account the date of birth of the petitioner as 27.7.1941 as well as further direction to pay the arrear pension with effect from 26.7.1999 with interest at the rate of 18% per annum.

2. The case of the petitioner is that he was appointed as junior mechanic on 8th February, 1965 under opposite party No.

2. He served the Company till 27th July, 2001 and retired with effect from the said date on attaining age of 60 years. After attaining the age of 58 years on 27.7.1999 the petitioner applied in the prescribed form for settlement of his pension and necessary documents for the purpose were forwarded to the opposite party No. 1 duly attested by opposite party No. 1, the Personnel Manager of the Company. On scrutiny of the pension papers some discrepancies were found out and the documents were returned to the petitioner for rectification. The discrepancy pointed out by opposite party No. 1 is that the date of birth furnished in the pension application differs from that of the date of birth appearing in the employees profile submitted by the establishment under which the petitioner was working. The petitioner was also intimated by letter dated

14.8.2000 that he is not eligible to get superannuation pension as per office record which was given by the management. The petitioner was also directed to submit documentary proof of his date of birth claiming superannuation pension. After receipt of the above intimation regarding deficiency in the application, the petitioner produced a transfer certificate wherein the date of birth of the petitioner has been recorded as 27.7.1941 and on verification it was also found that in all office records the date of birth has been mentioned as 27.7.1941. The pension papers were again sent to opposite party No. 1 through opposite party No. 2 on 26.10.2000 for settlement of the pension of the petitioner, but no action was taken. The petitioner met opposite party No. 1 in person but he was directed to produce original certificate in proof of his date of birth. On request of the petitioner opposite party again sent the original certificate for verification and also intimated that there has been an error in the date of birth submitted in the employee's profile by the company. The opposite party No. 2 further gave an undertaking that in case there is any problem in future on account of such erroneous entry made in the employee's profile it shall bear the full liabilities. Despite such undertaking given by opposite party No. 2 the pension having not been settled, the present writ application has been filed.

3. In spite of service of notice none appeared for opposite party No. 1. Learned counsel appearing for opposite parties 2 and 3 submitted that it had no objection if the prayer of the petitioner is allowed and learned counsel appearing for the said opposite parties stood by whatever has been stated in the writ application.

4. Since the opposite party No. 1 in spite of notice did not enter appearance or contest the writ application, the averments made in the writ application are accepted as correct, Opposite party No. 2 also though has not filed counter affidavit, admitted before the Court through the learned counsel that the averments made in the petition are correct. In view of such position, this writ application is disposed of with direction to opposite party No. 1 to treat the date of birth of the petitioner as 27.7.1941 as reflected in the transfer certificate and settle the opinion of the petitioner accordingly. So far as the arrear pension is concerned, the opposite party No. 1 is directed to pay the same within a period of four months from the date of communication of this order, failing which it shall carry interest at the rate of 12% from the date it became due.

5. With the aforesaid observation and direction the writ application is disposed of.