
(2009) 10 OHC CK 0050
In the Orissa High Court

Dr. Surendra Mishra

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 29-10-2009

Acts Referred:

Citation : (2010) 1 OLR 510

Hon'ble Judges : B.N. Mahapatra, J;A.S. Naidu, J

Bench : Division Bench

Judgement

A.S. Naidu, J.—The order dated 14.2.2005 passed by the Orissa Administrative Tribunal, Cuttack in O.A. No. 93(C)/1999 is assailed in this Writ Petition. The petitioner was working as a doctor in the cadre of Class-1 (Senior) at Patnagarh in the district of Bolangir, Unfortunately, he was suspended from service and a disciplinary proceeding was initiated, against him. Subsequently, he was reinstated on 5.4.90 and retired from service on attaining the age of superannuation w.e.f. 30.6.1996. After retirement the petitioner approached the authorities several times for payment of his pension. But then the authorities did not pay any heed to his requests. Having no other alternative the petitioner approached the Tribunal in O.A. No. 1587/1996 assailing initiation of the departmental proceedings. He also moved the Tribunal in O.A. No. 3700/1996 with a prayer to issue a direction to the authorities to pay his pension. In O.A. No. 3700/1996 the Tribunal by order dated 22.1.1996 directed the State Government to pay provisional pension within a period of one month. The said order having not been complied, the petitioner moved the Pension Lok Adalat. It is submitted that the Lok Adalat also directed the authorities to pay pension within a stipulated time. In spite of the said direction, no action was taken by the authorities, consequently, the petitioner once again filed O.A. No. 93(c)/1999. In the said O.A. the Tribunal issued an interim order directing the authority to pay provisional pension to the petitioner. The said direction was also flouted by the authority, consequently the petitioner filed C.P. No. 248(C)/99 and two other Misc. Petitions, i.e. M.P. Nos. 40(C) and 42 (C) of 2002. The Tribunal after hearing parties came to the conclusion that the petitioner had contributed to the

cause of delay in finalization of his pension papers and the C.P. was dropped. Being aggrieved by the said observation, the petitioner, as it appears, approached this Court in O.J.C. No. 4084/2002. The said Writ application was disposed of on 18.11.2004. This Court directed the Tribunal to dispose of the O.A. No. 93(c)/1999 without being influenced by the observations made in the C.P. Thereafter, the O.A. was heard and disposed of by the impugned order. The Tribunal, it is submitted, erroneously relying upon the observations made earlier in C.P. No. 248(c)/99, refused the prayer of the petitioner to award any interest. Being aggrieved, the petitioner has approached this Court once again.

2. After going through the impugned order this Court finds that there is apparent error on the face of the impugned order inasmuch as in spite of the observations made by this Court in O.J.C. No. 4084/2002, the Tribunal without deciding the dispute on merit relied upon the observations made in the Contempt Petition to the effect that the petitioner had contributed to the cause of delay, and rejected the prayer to pay interest.

3. In view of the aforesaid apparent error we felt that it is a fit case which should be remitted back to the Tribunal for de novo disposal, but then learned Counsel for the petitioner submits that the petitioner is suffering from brain tumor and passing his days under stringent financial difficulties.

4. Heard learned Counsel for the petitioner and learned Counsel for the State. Perused the pleadings and documents annexed meticulously. Admittedly, the petitioner was a Government employee. He retired from service on 30.6.1996. A portion of the provisional pension was paid only on 31.3.2000. Thus, there was delay of more than three years. It is no more res integra that pension is not a bounty. It is in fact a deferred salary and is like a property. Pension is co-related and has nexus with the salary payable to the employee on the date of retirement, (see U.P. Raghavendra Acharya and Others Vs. State of Karnataka and Others, . Similar view is also expressed by the Supreme Court in the case of D.S. Nakara and Others Vs. Union of India (UOI), .

5. In view of the aforesaid principles laid down by the Supreme Court and as non-payment or delayed payment of pension causes the immense difficulties to the retired employees, we feel that it would be just and prudent to direct the opposite parties to pay interest " 6% per annum on a sum of Rs. 67,000/- and odd, paid towards provisional pension on 31.3.2000. The said interest will be for the period commencing from 30.6.1996 when the petitioner retired till 31.3.2000 when the amount was paid.

6. Learned Counsel for the petitioner further submitted that there was inordinate delay in payment of gratuity. The payment of gratuity Act itself prescribed for awarding interest on delayed payment and as such no further orders are necessary.

7. In view of the discussions made above we further direct that the entire exercise shall be completed within a period of three months from the date of

communication of this order, failing which the authority shall be liable to pay interest " 18% per annum on the entire dues from the date when the petitioner became entitled to receive the retirement benefits.

The Writ Petition is disposed of accordingly.

B.N. Mahapatra, J.

8. I agree.