

(2007) 05 OHC CK 0020

In the Orissa High Court

Case No : Writ Petition (Civil) No. 1304 of 2004

Gethal Bhoi

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 18-05-2007

Acts Referred:

Citation : (2007) 104 CLT 405 : (2007) 1 OLR 985 Supp

Hon'ble Judges : I. Mahanty, J

Bench : Single Bench

Advocate : S.K. Purohit, P. Mohapatra, K.M.H. Niamoti, A.K. Das and S.K. Mohanty, for the Appellant; Standing Counsel for Opp. Party No. 1, P.V. Balakrishna, for Opp. Party No. 2 and Addl. Standing Counsel, School and Mass Edn. for Opp. Parties Nos. 3 and 4, for the Respondent

Judgement

I. Mahanty, J.—The Petitioner in this writ application seeks to challenge the order dated 11.12.1996 (Annexure-1) passed by the Accountant General, Orissa, Bhubaneswar returning the recommendation of the District Inspector of Schools, Sambalpur for revision of the pension of the Petitioner. The Petitioner retired as a primary school teacher with effect from 10.3.1985 after the extended period of service on account of being honoured by the State Award.

2. In essence, the claim of the Petitioner in the present writ application is that his case is fully covered by the decision of the Supreme Court in Civil Appeal No. 2224 of 1991 Nanda Kishore Nayak v. State and Ors. and the decision of the Full Bench of this Court in O.J.C. No. 186 of 1989 Baidhar Mishra v. State and Ors.. The apex Court in the case of Nanda Kishore Nayak (supra) observed as follows:

The relief for refixation of pension by extending the date of superannuation by two years can be granted to them. We, therefore, direct the State Govt. to grant the benefit of the judgment to all those employees including the Appellant herein who would have otherwise retired at the age of 60 years on the interpretation placed on the relevant provisions of the Act and the Rules by the High Court.

3. On consideration of the judgments referred to herein above, notice was issued in this matter. A counter affidavit was filed by the District Inspector of Schools- Opp. Party No. 4 and in paragraph-4 thereof, the following stand has been taken:

That as per Resolution No. 32103/SME dtd. 20.10.94 (Annexure-2), this Opp. Party has forwarded the pension papers of the Petitioner vide letter No. 2810 dtd. 22.7.96 to the A.G., Orissa for revision of pension of the Petitioner. But the A.G., Orissa vide letter No. 770 dtd. 11.12.96, returned the proposal for revision with the remark that the revision of pension as per G.O. No. 32103/SME dtd. 20.10.94 was available to the Petitioner since the Petitioner had initially drawn his pension as per Ex-District Board Rules, Sambalpur.

Thereafter, the Deputy Accountant General has filed a counter affidavit on behalf of Opp. Party No. 2 and in paragraph-5 thereof, it is stated as follows:

That the claim of the Petitioner for revision of his pension by taking into account the extended period of service from 11.3.83 to 10.3.1985 as qualifying service was examined by calling required information from the concerned Pension sanctioning authority. Since, the Petitioner's above claim was found genuine, necessary order authorizing the Treasury Officer, Sambalpur, to pay revised pension @ Rs. 168/ - PM + T.I. (instead of Rs. 154/ - pm + TI) with effect from 11.03.1985 to the Petitioner has been issued by this Opposite Party vide letter No. Pen-18-1814 dated 03.11.2006, a copy of which is annexed as Annexure-A/1 to this counter affidavit. Further, a copy of the said letter requesting the District Inspector of Schools, Sambalpur (being the PSA) to submit a fresh proposal in prescribed form along with pay fixation statement for revision of the Petitioner's pension in the revised pay scale has also been endorsed.

4. In view of the stand taken by Opp. Party No. 2 in paragraph-5 of the counter affidavit and since the Petitioner's claim is found to be genuine and the revision of the pensionary benefit is said to have been made vide Annexure-A/1 to the said counter affidavit, the present writ application is disposed of with a direction to the District Inspector of Schools to submit a fresh proposal in the prescribed Form by re-fixing the Petitioner's pension in the revised pay scale within a period of two months from the date of receipt of copy of this order. Further, Opp. Party No. 2-Accountant General is directed to act in terms of the fresh proposal to be submitted by the D.I. of Schools within a period of two months thereafter and to ensure that all outstanding pensionary benefits of the Petitioner are released in his favour within the aforesaid period. It is made clear that if the entire exercise is not completed within the time stipulated, the Petitioner shall also be entitled to interest at the rate of ten per cent per annum from the date of this judgment till actual payment and such interest, if due and payable, shall be deducted from the salary of such officer who causes the delay, if any, in compliance of this judgment.