

(2023) 10 OHC CK 0087

In the Orissa High Court

Case No : Writ Petition Civil (OAC) No. 3354 Of 2017

Sri Ananda Kumar Mishra

APPELLANT

Vs

State of Odisha

RESPONDENT

Date of Decision : 13-10-2023

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Code of Criminal Procedure, 1973 — Section 202
Administrative Tribunals Act, 1985 — Section 19
Companies Act, 1956 — Section 108
Odisha Civil Services (Pension) Rules, 1992 — Rule 42, 65, 66
Odisha Civil Services (Pension) Amendment Rules, 2010 — Rule 2(1)(q)

Citation : (2023) 10 OHC CK 0087

Hon'ble Judges : Murahari Sri Raman, J

Bench : Single Bench

Advocate : Saswati Mohapatra, P. Mangaraj, Sachidananda Nayak

Final Decision : Allowed

Judgement

Murahari Sri Raman, J.—

THE PRAYER OF THE PETITIONER:

1. Approaching the learned Odisha Administrative Tribunal, Cuttack Bench, Cuttack, by way of filing the Original Application under Section 19 of the Administrative Tribunals Act, 1985, with a grievance that notwithstanding voluntary retirement notice dated 08.07.2013 being accepted by the Collector, Sambalpur- opposite party No.2 on 31.10.2013, no interest has been paid on the delayed disbursement of pension and other retirement dues sanctioned in the year 2017 under the Odisha Civil Services (Pension) Rules, 1992, the petitioner has made the following prayer(s) in O.A. No.3354 of 2017:

"(i) direct/order the State-respondents, more particularly the respondent No.2 to release 18% interest for delay in disbursement of pensionary benefits of the applicant, i.e., from 01.11.2013 to 30.07.2017 on the date of actual payment;

(ii) pass such other order(s) or issue direction(s) as may be deemed fit and proper in the bona fide interest of justice.”

2.1. The said Original Application has been converted to writ petition, being registered in this Court as WPC (OAC) No.3354 of 2017, after abolition of the Odisha Administrative Tribunal by virtue of Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Notification F. No. A-11014/10/2015-AT [G.S.R.552(E).], dated 2nd August, 2019).

THE FACTS:

3. Shorn off unnecessary factual details, suffice it to narrate the facts as placed by the petitioner in the application that on being promoted to the post of Senior Clerk from the post of Junior Clerk under the administrative control of the opposite party No.2, he joined in the Office of the Special Certificate Officer, Sambalpur on 25.02.2009. In terms of Rule 42 of the Odisha Civil Services (Pension) Rules, 1992 (“OCS (Pension) Rules”, for brevity), notice for voluntary retirement dated 08.07.2013 was given, which got acceptance by the Collector, Sambalpur vide Order No.1878/ESTT, dated 31.10.2013, whereby the petitioner was allowed to “retire from Government service with effect from 31.10.2013”.

3.1. Though several approaches were made by the petitioner for sanction of pension and other retirement dues, the Deputy Collector (Estt), Collectorate, Sambalpur vide Memo. No.1795/Estt., dated 02.07.2015 intimated that pension papers, being not received by him instructions are sent to the Special Certificate Officer vide Letter No.1794, dated 02.07.2015. A Letter bearing No.1924/ESTT., dated 18.07.2017, issued by the Collector, Sambalpur addressing the Accountant General (A&E), Odisha, Bhubaneswar, shows that pension papers were forwarded stating that the petitioner had been working in his Department/Office.

3.2. Documents enclosed at Annexure-9 series to the petition reveals that the opposite party No.2-Collector sanctioned provisional pension in Form-N prescribed under the OCS (Pension) Rules, refund of one time deposit made under Group Insurance Scheme and cash equivalent to leave salary and dearness allowance appropriated to the leave salary for 300 days of earned leave lying unutilised on the last day of service of the petitioner, i.e., 31.10.2013.

3.3. Citing delay of around four years from 2013 to 2017 occurred due to lackadaisical and indifferent attitude of the authority concerned, the petitioner is entitled to be compensated by way of award of interest @ 18% per annum or market rate of interest.

COUNTER-AFFIDAVIT OF THE OPPOSITE PARTY NO.2:

4. Opposing averments made in the petition, the Additional Tahasildar, Maneswar in the district of Sambalpur has filed Counter-Affidavit, dated 12.12.2022 on behalf of the opposite party No.2, serving a copy thereof on the counsel for the petitioner on 14.12.2022.

5. Justifying the action of the opposite party No.2, referring to the second proviso inserted in the definition of the term "Pension Sanctioning Authority" contained in clause (q) of sub-rule (1) of Rule 2 by virtue of the Odisha Civil Services (Pension) Amendment Rules, 2010, published vide Extraordinary issue of the Odisha Gazette No.26, dated 23.07.2010, it has been contended that the petitioner, being the sole ministerial staff, should have placed his own pension papers for sanction of "provisional pension" before the "Appointing Authority, i.e., Pension Sanctioning Authority".

5.1. Refuting the allegation of the petitioner that there was delay on the part of the authority concerned in forwarding and sanctioning his pension and other retirement benefits, it is asserted by the opposite party No.2 through Additional Tahasildar of Maneswar in the Counter-Affidavit that since District Office is not responsible to maintain his service book, the question of relieving him from duties by the Collector, Sambalpur did not arise. Rather it is the Special Certificate Officer who was required to do the needful. Though the Collector-opposite party No.2 accepted notice for voluntary retirement way back on 31.10.2013, since relieving the petitioner from his duties got "badly delayed", he (opposite party No.2) relieved him by Order dated 29.06.2016 with retrospective effect from 31.10.2013 (Annexure-8 to the writ petition).

5.2. Alleging that the petitioner never approached the Special Certificate Officer for sanction of pension (provisional), the opposite party No.2 has maintained that the petitioner having submitted his pension papers at much later date, i.e., 23.12.2016 for onward transmission by the Pension Sanctioning Authority for releasing the authorization of Pension Payment Order. The opposite party No.2 also submitted that it was the Special Certificate Officer who was being pursued time and again for submission of pension papers and alleged that the said Officer did not maintain the service book. Laying stress on second proviso to clause (q) of sub-rule (1) of Rule 2 of the OCS (Pension) Rules, it has been reiterated by the opposite party No.2 that the petitioner having not handed over charge to the "ministerial staff so as to enable him to put up the file before the Special Certificate Officer for sanctioning" provisional pension, the delay in disbursement of provisional pension and other retirement dues would not attract interest.

ARGUMENTS:

6. Since pleadings are completed, on the consent of counsel for both sides, this matter is disposed of at the stage of admission. This Court heard Ms. Saswati Mohapatra, learned Advocate appearing for the petitioner and Sri Sachidananda Nayak, learned Additional Standing Counsel.

7. Ms. Saswati Mohapatra, learned Advocate for the petitioner submitted that since the notice for voluntary retirement dated 08.07.2013 was accepted by the Collector, Sambalpur on 31.10.2013 vide Order No.1878 (Annexure-2), he should have taken care to relieve him and step for release of pension along with other retirement dues. Reference to second proviso to clause (q) of sub-rule (1) of

Rule 2 of the OCS (Pension) by the opposite party No.2 is misconceived inasmuch as the said proviso would be applicable in the circumstances envisaged under Rule 65 and Rule 66. She further urged that when it is admitted case of the opposite party No.2 that he has been persuading the Special Certificate Officer to submit pension papers, as is apparent from one of the communications to the said Officer by Deputy Collector (Estt), Collectorate, Sambalpur, such as Letter No.523/Estt., dated 20.02.2015 vide Annexure-B/2 appended to the Counter-Affidavit, for no fault the delay could be attributed to the petitioner. Referring to document under Annexure-F/2, which is a Letter bearing No.11174, dated 04.07.2015 issued by Special Certificate Officer to the Deputy Collector (Estt), valiant attempt has been made by Ms. Saswati Mohapatra, learned counsel that having accepted the notice for voluntary retirement of the petitioner in the year 2013, it is only in the year 2015 the Special Certificate Officer intimated that "Sri Ananda Kumar Mishra, Senior Clerk was not drawing his salary either from the establishment of the Sub-Collector, Sambalpur or from the Special Certificate Court, Sambalpur and also his service book was not maintained" in his office. She further referred to Annexure-G/2, i.e., Letter No.2191, dated 04.08.2015 issued by the Additional District Magistrate, Sambalpur addressed to the Sub-Collector, Sadar, Sambalpur, whereby it has been clearly mentioned that though voluntary retirement of the petitioner has been accepted with effect from 31.10.2013, he was not relieved of his duties till that date and in the said letter instructions were issued to take steps for taking over charges from Sri Ananda Kumar Mishra. In pursuance of such direction, the petitioner was relieved by the Collector, Sambalpur with retrospective effect from 31.10.2013 vide Order No.2999, dated 29.09.2016. Even thereafter no prompt step was taken to sanction pension. It took around a year. Therefore, the delay is wholly attributable to the bureaucratic methodology imbued with the note-making, file-pushing and passing-on-the-buck ethos. Ms. Saswati Mohapatra strenuously urged that the petitioner cannot be made to suffer for such anarchy on the part of the opposite parties.

7.1. Ms. Saswati Mohapatra, learned counsel for the petitioner persuaded by drawing attention to Rule 42 of the OCS (Pension) Rules wherein it has been provided that it is the Appointing Authority who is vested with the power to accept the notice of voluntary retirement. As the Collector, Sambalpur accepted notice for voluntary retirement of the petitioner by issue of Order dated 31.10.2013 (Annexure-2), there was no reason much less plausible reason to refrain himself from issuing Order to relieve the petitioner from his duties. Realising the mistake that such order for relieving the petitioner was required to be issued by him in the year 2013 itself, he issued Office Order bearing No.2999 on 29.09.2016 specifying therein that the petitioner is relieved with retrospective effect from 31.10.2013.

7.2. Hence, it is forcefully argued on behalf of the petitioner that he is entitled to interest @ 18% on account of delay in disbursement of pension and other retirement dues.

8. Sri Sachidananda Nayak, learned Additional Standing Counsel denying the allegations of the petitioner, submitted that the delay occurred due to non-cooperation on the part of the petitioner as he never approached the Special Certificate Officer for "sanction of his provisional pension" and there has been delay in submission of pension papers to the Head of Office, i.e., Special Certificate Officer, Special Certificate Court, Sambalpur by the petitioner. Such being the fact, the petitioner is not at all entitled to the relief claimed for in the writ petition.

8.1. Refuting the contention of Ms. Saswati Mohapatra, learned counsel appearing for the petitioner, Sri Sachidananda Nayak, learned Additional Standing Counsel for the opposite parties vehemently submitted that as the petitioner did not furnish required documents before the appropriate authority, i.e., Special Certificate Officer, Special Certificate Court, Sambalpur, occasion did not arise for the Collector-opposite party No.2 to consider the pension and other retirement dues in favour of the petitioner. Nonetheless, it is for the petitioner who was at fault by not complying with the directions contained in the letters. As he was the sole Senior Assistant working in the Office of Special Certificate Officer, pension papers should have been placed before his authority for taking necessary action. In such view of the matter, the writ petition deserves dismissal.

DISCUSSIONS AND ANALYSIS:

9. Pertinent facts which emanate from the correspondences enclosed to the writ petition and the Counter-Affidavit sworn to by the Additional Tahasildar, Maneswar in the district of Sambalpur reveals that having considered the notice for voluntary retirement of the petitioner, the Collector, Sambalpur accepted the same by communicating following Order, which is available at Annexure-2 of the writ petition:

"Office of the District Magistrate and Collector, Sambalpur

Order No. 1878/ESTT.

Date 31.10.2013.

The undersigned has been pleased to accept the notice for voluntary retirement dated 08.07.2013 of Sri Anand Kumar Mishra, Senior Clerk, Spl. Certificate Court, Sambalpur in the district of Sambalpur and allowed him to retire from Govt. service w.e.f. 31.10.2013 AN after observing all formalities in accordance to the Rule 42 of O.C.S. (Pension) Rules, 1992.

Sd/-

Collector, Sambalpur

Memo No. 1879/Estt. Date. 31.10.2013.

Copy to Person Concerned for information and necessary action.

Copy forwarded to the Spl. Certificate Officer, Sambalpur for information and necessary action. He is requested to relieve Sri Ananda Kumar Mishra, Senior Clerk w.e.f.31.10.2013 after observing necessary formalities and compliance reported to this office for information.

Collector, Sambalpur"

9.1. As is apparent from aforesaid Order, though the Special Certificate Officer, Sambalpur was instructed by the Collector, Sambalpur "to relieve Sri Ananda Kumar Mishra, Senior Clerk with effect from 31.10.2013", by Order No.2999/ESTT, dated 29.09.2016, the Collector, Sambalpur relieved the petitioner. Said Order as at Annexure-8 of the writ petition reflects as follows:

"Office of the District Magistrate and Collector, Sambalpur

Order No. 1878/ESTT.

Date 31.10.2013.

Sri Ananda Kumar Mishra, Ex-Senior Clerk of Special Certificate Court, Samblapur who has been allowed to retire from Government Service voluntarily vide this office Order No. 1878/ESTT., Dt.31.10.2013 is hereby relived from his duties with effect from 31.10.2013 afternoon which will take retrospective effect.

Sri Mishra is directed to deliver complete charges to the person as would be directed by the Sub-Collector, Sadar, Sambalpur and In-Charge Special Certificate Officer, Special Certificate Court, Sambalpur.

Sd/-

Collector, Sambalpur

Memo.No. 3000/ESTT.,

Dt. 29.09.2016

Copy to the person concerned for information and necessary action.

Sd/-

Collector, Sambalpur

Memo.No. 3001/ESTT.,

Dt. 29.09.2016

Copy to Sub-Collector, Sadar, Sambalpur and in-Charge Special Certificate Officer, Special Certificate Court, Sambalpur for information and necessary action. He is requested to take immediate appropriate action for handing over and taking over charges in respect of Sri Mishra, Ex- Senior Clerk (Retired).

Copy to Guard File.

Sd/-

Collector, Sambalpur"

9.2. The reason for such a delay appears to be transparent from the following communication vide Letter No.11174, dated 04.07.2015 issued by the Special Certificate Officer of Special Certificate Court which forms part of the Counter-Affidavit of the opposite party No.2-Collector, Sambalpur (Annexure-F/2):

"Office of the Sub-Collector, Sadar, Sambalpur

No. 11174

Date 04.07.2015.

To

The Deputy Collector, Establishment,

Collectorate, Sambalpur

Sub.: Submission of pension papers of Sri Ananda Kumar Mishra, Ex-Senior Clerk of Special Certificate Court

Ref.: Letter No. 1794/ESTT, Dt. 02.07.2015

Sir,

In inviting a reference to District Office Letter on the subject cited above, I am to state that Sri Ananda Kumar Mishra, Senior Clerk was not drawing his salary either from the establishment of the Sub-Collector, Sambalpur or from the Special Certificate Court, Sambalpur and also his Service Book was not maintained in this Office. This is for your information and necessary action.

Yours faithfully

Sd/-

Special Certificate Officer of Spl. Certificate Court & Sub-Collector, Sambalpur

Memo No. _____

Date_____

Copy to Sri Anand Kumar Mishra, Ex. Senior Clerk, At-Nandapara, Sambalpur for information with reference to Memo No. 1795, Dt. 02.07.2015 of Deputy Collector, (Establishment), Sambalpur.

Sd/-

Special Certificate Officer of

Spl. Certificate Court & Sub-Collector,

Sambalpur”

9.3. From the aforesaid correspondences between different authorities it is understood that the Collector, Appointing Authority, was under confused state and did not take action with promptitude. To pass on the responsibility of placing the pension papers by the sole Senior Clerk is improper inasmuch as he was no more Senior Clerk on or after 01.11.2013. To reiterate it would suffice to say that even though the Collector-opposite party No.2 accepted the notice for voluntary retirement with effect from 31.10.2013 vide Annexure-2, it took for him to relieve Sri Ananda Kumar Mishra around three years vide Letter No.29.09.2016 (Annexure-8), notwithstanding the fact that the petitioner was not “drawing his salary either from the establishment of the Sub-Collector, Sambalpur or from the Special Certificate Court, Sambalpur and also his service book was not maintained” in the Office of Special Certificate Court, was brought to the notice of the Appointing Authority. It is, thus, observed by this Court that a false and untenable plea has been taken by the opposite party No.2 at paragraph 14 of the Counter-Affidavit. For better appreciation, such vague plea is reproduced herein below:

“*** On receipt of the pension paper and considering the unwarranted situation like sanction of provision pension by the Special Certificate Officer being the head of office of the applicant, due to non-handing over of charges by the applicant to the ministerial staff so as to enable him to put up the file before the Special Certificate Officer for sanctioning of provisional pension, it was decided to sanction provisional pension ignoring the proviso contained in Finance Department’s Notification No.30293/F., dated 08.07.2010.”

9.4. This Court finds when the petitioner was ceased to be Senior Clerk in the Office of the Special Certificate Court with effect from 31.10.2013, there was no scope for him to place the files before the Special Certificate Officer as contended by the opposite party No.2. Much emphasis has been laid on second proviso to clause (q) of sub-rule (1) of Rule 2 of the OCS (Pension) Rules as amended by virtue of the OCS (Pension) Amendment Rules, 2010 vide Finance Department Notification No.30293-Pen-53/2010/F., dated 08.07.2010 (Annexure-A/2) to contend that provisional pension could only be granted/sanctioned as stipulated under said proviso.

9.5. Clause (q) of sub-rule (1) of Rule 2 of the OCS (Pension) Rules as amended in 2010 stands thus:

“Pension Sanctioning Authority means the Appointing Authority competent to make appointment to the post held by the retiring Government servant:

Provided that where the Appointing Authority in the Government or the Principal, Secretary, Commissioner-cum-Secretary or the Secretary to Government, the authority to sanction pension under these rules may be delegated by the said Appointing Authority to any subordinate officer under his/her direct control authorised to authenticate Government order under the Rules of Business.

Provided further that in case of sanction of provisional pension of a retired Government servant as provided under Rule 65 and Rule 66 of these rules, the Pension Sanctioning Authority means the Head of Office under whom the retiring Government servant worked last even if such head of office is not the appointing authority of the said Government servant."

9.6. Rule 65 of the OCS (Pension) Rules dealing with "Provisional pension", under sub-rule (1) thereof states that "in case where, it may not be possible for the Appointing Authority to forward the pension papers referred to in Rule 62 to the Accountant General, Odisha within the period prescribed therein after following due procedure, or where the pension papers have been forwarded to the Accountant General, Odisha within the prescribed period but the Accountant General has either not issued the pension payment order in time or has returned the pension papers to the Pension Sanctioning Authority soliciting further information before issue of pension payment order and order for the payment of gratuity or both and such pension and gratuity cannot be finally assessed and settled in accordance with the provisions of these rules prior to the date of retirement, he shall without delay, take steps to determine the qualifying years of service and emoluments qualifying for pension after the most careful summary investigations that may be made."

9.7. Nothing is placed on record to demonstrate that for sanction of provisional pension, there was in existence any of the circumstances enumerated in said sub-rule (1) of Rule 65. Said sub-rule further provided that the Appointing Authority is required to "rely upon such information as may be available in the Official records; and ask the retiring Government servant to furnish a written statement on plain papers stating the total length of qualifying service including details of emoluments last drawn but excluding the breaks/other non-qualifying periods of service".

9.8. Scanning the documents enclosed to writ petition as also the Counter-Affidavit does not bring out the fact that the Appointing Authority has asked the petitioner to furnish statement in plain paper as envisaged under Rule 65. Rather Letter dated 07.08.2015 of the Sub-Collector, Sadar vide Annexure-E/2 of Counter-Affidavit reveals as follows:

"Office of the Sub-Collector, Sadar, Sambalpur

Letter No. 12933

Date 07.08.2015

To

The Additional District Magistrate,

Sambalpur

Sub.: Taking over charges of files/register, records etc. relating to Special

Certificate Court from Sri Ananda Kumar Mishra retired Senior Clerk and his relieve therefore on acceptance of his voluntary retirement.

Ref.: Your Letter No.2191/ESTT., Dt. 04.08.2015

Sir,

In inviting a reference to the letter on the subject cited above, I am to say that arrangement was made for taking over charge of files/register records etc. relating to Special Certificate Court. Sri Pradip Dora, Sr. Clerk is being directed to taking over charges of Special Certificate Court vide this office Order No.12488, dt. 31.07.2015 which was communicated to the Deputy Collector establishment vide next memo.

The Special Certificate Court was function in the premises of the Sub-Collector Office and Sri Anand Mishra Sr. Clerk was the only staff who was dealing with the files, records etc. under the control of the District office.

As per representation of Sri Ananda Kumar Mishra dt.28.07.2015 (enclosed in the Letter No. 2191, dt.04.08.2015 of Additional District Magistrate), his salary etc. was drawn in the Establishment Section of District office, his Service Book is also maintained in the District office. Accordingly relieve of Sri Anand Kumar Mishra by this Office does not arise. In this connection this office intimated to District office, vide Letter No. 11174, dt.04.07.2015 which may kindly refer to.

This is for your kind Information.

Yours faithfully

Sd/-

Sub-Collector: Sadar, Sambalpur

In-charge Special Certificate Officer

Special Certificate Court Sambalpur"

9.9. It is transpired from the correspondences of authorities referred to supra that the petitioner had been drawing his salary from the District Office and his Service Book was also maintained in the said office. Therefore, the Collector, Sambalpur could not have shunned his responsibility as the Appointing Authority. Nevertheless, the Office Order dated 31.10.2013 (Annexure-2) showing acceptance of notice for voluntary retirement of the petitioner and Order dated 29.09.2016 under Annexure- 8 indicating that the petitioner was relived of "his duties with effect from 31.10.2013 afternoon which will take retrospective effect" are pointers to conclude that the Collector, Sambalpur, being the Appointing Authority, is also the Pension Sanctioning Authority as described in Rule 2(q) of the OCS (Pension) Rules. Had that been not so, he would not have signed the OCS (Pension) Form-G prescribed under Rule 62(2) and the OCS (Pension) Form-N prescribed under Rules 65(4), 76(1) and 9 & 15 of the OCS (Pension) Rules, 1992 vide Annexure-9 series describing himself as "Pension

Sanctioning Authority”.

9.10. It may also be noteworthy to notice the provisions contained in Rule 58 which reads as under:

“58. Preparation of pension papers.—

(1) Every Head of Office shall undertake the work of preparation of pension papers in Form F two years before the date on which a Government servant is due to retire on superannuation.

Where the retiring Government servant is himself the Head of Office/Head of Department, the preparation of pension papers shall be undertaken by the Head of Department/Administrative Department, as the case may be.

(2) The Head of Office shall be responsible for obtaining the particulars from the Government servant at least one year before the date of retirement in Form E and complete the processing of pension papers as early as possible and in no case not later than eight months in advance of the date of retirement of the employee.

(3) Where the Head of Office is not the Appointing Authority pension papers shall be transmitted to the Appointing Authority one year before the date of retirement of the Government servant and the Head of Office shall take the action, well in advance keeping this time-limit in view.”

9.11. Dealing with “Completion of pension papers” it is stipulated under Rule 61 of the OCS (Pension) Rules that “the Head of Office shall complete Part-I of Form F not later than six months of the date of retirement of the Government servant”. Time-line has also been provided for in Rule 62 of the OCS (Pension) Rules, 1992 which deals with “Forwarding pension papers to the Appointing Authority/Accounts Officer”. Sub-rule (2) of Rule 62 contains thus:

“(i) The Appointing Authority shall sanction the pension in Part-II of Form-F and intimate the same to the Accountant General, Odisha in Form-G not later than two months before the date of retirement of Government servant.

(ii) It shall be sole responsibility of the Pension Sanctioning Authority to forward the pension papers to the Accountant General in time prescribed under clause (i) of this sub-rule (1) and sub-rule (2) of Rule 75 failing which he shall be liable for disciplinary proceeding.”

9.12. The use of the word “shall” in statutory provisions fell for consideration by Hon’ble Supreme Court of India. While examining the scope of expression “shall not register transfer of shares” employed in Section 108 of the Companies Act, 1956, the Hon’ble Supreme Court of India in the case of Mannalal Khetan Vrs. Kedar Nath Khetan, (1977) 2 SCC 424, made the following observation:

“In Raza Buland Sugar Co. Ltd. Vrs. Municipal Board Rampur, (1965) 1 SCR 970 this Court referred to various tests for finding out whether a provision is

mandatory or directory. The purpose for which the provision has been made, its nature, the intention of the legislature in making the provision, the general inconvenience or injustice which may result to the person from reading the provision one way or the other, the relation of the particular provision to other provisions dealing with the same subject and the language of the provision are all to be considered. Prohibition and negative words can rarely be directory. It has been aptly stated that there is one way to obey the command and that is completely to refrain from doing the forbidden act. Therefore, negative, prohibitory and exclusive words are indicative of the legislative intent when the statute is mandatory. (See Maxwell on Interpretation of Statutes 11th Ed. p. 362 seq.; Crawford Statutory Construction, Interpretation of Laws p. 523 and Seth Bikhraj Jaipuria Vrs. Union of India, (1962) 2 SCR 880.”

9.13. This Court while delivering Judgment on 31.07.2023 in the case of State of Odisha Vrs. Khirodini Rout, W.P.(C) No. 22976 of 2017, recorded the purport of “shall” by referring to various decisions to the following effect:

“In State of U.P. Vrs. Manbodhan Lal Srivastava, AIR 1957 SC 912, the apex Court held that the use of word “shall” is a presumption that the particular provision is imperative. As such, instances have been taken on Rule 57(2) of the Schedule-II to the Income Tax Act, 1961, which provides that the full amount of purchase of money payable “shall” be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the date of sale of property. Thereby, by using the word “shall”, the apex Court held that it is mandatory on the part of the purchaser to pay the full amount to the Tax Recovery Officer. As such, following this principles, the apex Court time and again held similar view in various subsequent judgments and ultimately got approval in the case of Pesara Pushpamala Reddy Vrs. G. Veera Swamy, (2011) 4 SCC 306.

In C.N. Paramsivam Vrs. Sunrise Plaza, (2013) 9 SCC 460, the apex Court relying upon the word “shall” as well as the earlier decision of the Court on *pari materia* provision in Order XXI of the CPC, held that making of the deposit by the intending purchaser is mandatory.

In Sainik Motors Vrs. State of Rajasthan, AIR 1961 SC 1480, Hon’ble Justice Hidayatullah observed that the word “shall” is ordinarily mandatory but it is sometimes not so interpreted if the context or the intention otherwise demands and points out. ***

In Vijay Dhanuka Vrs. Najima Mamta, (2014) 14 SCC 638, the apex Court, while interpreting Section 202 of the Cr.P.C, which provides that the Magistrate “shall” in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding, held that the word “shall” is ordinarily mandatory but sometimes, taking into account the context or

the intention, it can be held to be directory.”

9.14. In *State Tax Officer Vrs. Rainbow Paper Limited*, (2022) 13 SCR 808, it has been held as follows:

“50. Ordinarily, the use of the word “shall” connotes a mandate/binding direction, while use of the expression “may” connotes discretion. If statute says, a person may do a thing, he may also not do that thing. Even if Section 31(2) is construed to confer discretionary power on the Adjudicating Authority to reject a Resolution Plan, it has to be kept in mind that discretionary power cannot be exercised arbitrarily, whimsically or without proper application of mind to the facts and circumstances which require discretion to be exercised one way or the other.

51. If the established facts and circumstances require discretion to be exercised in a particular way, discretion has to be exercised in that way. If a Resolution Plan is *ex facie* not in conformity with law and/or the provisions of IBC and/or the Rules and Regulations framed thereunder, the Resolution would have to be rejected. It is also a well settled principle of interpretation that the expression “may”, if circumstances so demand can be construed as “shall”.”

9.15. Reference may also be had to *Reserve Bank of India Vrs. Peerless General Finance and Investment Co. Ltd.*, (1987) 1 SCC 424; *State of U.P. Vrs. Babu Ram Upadhyaya*, AIR 1961 SC 751; and *State of U.P. Vrs. Manbodhan Lal Srivastava*, AIR 1957 SC 912, wherein the purport of the word “shall” has been laid down as a well settled rule of interpretation of the statutes to the effect that the use of the word “shall” in a statute, does not necessarily mean that in every case it is mandatory that unless the words of the statute are literally followed, the proceeding or the outcome of the proceeding, would be invalid. It is not always correct to say that if the word “may” has been used, the statute is only permissive or directory in the sense that non-compliance with those provisions will not render the proceeding invalid and that when a statute uses the word “shall”, *prima facie*, it is mandatory, but the Court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute. The principle of literal construction of the statute alone in all circumstances without examining the context and scheme of the statute may not serve the purpose of the statute.

9.16. Conspectus of aforesaid interpretation leads to show that on the facts and in the circumstances of the case, on the one hand when the Collector, Sambalpur-opposite party No.2 acknowledges that he has accepted the notice for voluntary retirement and specified date of retirement of the petitioner as “31.10.2013”, he should have taken steps with promptitude to relieve him from his duties, which in fact, he had done so with inordinate delay in the year 2016 by relieving the petitioner with retrospective effect.

9.17. Under the aforesaid premises, this Court is, therefore, persuaded to hold that there was inordinate delay in disbursement of pension and other retirement dues attributable to the Authority concerned.

10. It is statutory obligation of the employer to pay pension. It has fairly been well-settled that pension is not a charity or bounty nor is it a conditional payment solely dependent on the sweet will of the employer. Pension is in the nature of deferred payment earned for rendering long and satisfactory service with the employer. It is a social security measure, consistent with the socio-economic requirements, providing safeguards to the employees in their later years of life, who have shed their sweat and blood for their employer during their long service tenure. The benefit is conferred upon an employee for his unblemished career.

10.1. In *State of Rajasthan Vrs. Mahendra Nath Sharma*, (2015) 9 SCC 540 it has been observed that the antiquated notion of pension being a bounty, a gratuitous payment depending upon the sweet will or grace of the employer not claimable as a right and, therefore, no right to pension can be enforced through court has been swept under the carpet by the decision of the Constitution Bench in *Deokinandan Prasad Vrs. State of Bihar*, (1971) 2 SCC 330, wherein the Court authoritatively ruled that pension is a right and the payment of it does not depend upon the discretion of the Government but is governed by the rules and a Government servant coming within those rules is entitled to claim pension. It was further held that the grant of pension does not depend upon anyone's discretion. It is only for the purpose of quantifying the amount, having regard to service and other allied matters, that it may be necessary for the authority to pass an order to that effect, but the right to receive pension flows to the Government servant not because of any such order but by virtue of the rules. This view was reaffirmed in *State of Punjab Vrs. Iqbal Singh*, (1976) 2 SCC 1.

10.2. A Division Bench of this Court in *Dhruba Charan Panda Vrs. State of Odisha*, 88 (1999) CLT 637 = 1999 (II) OLR 433 has given to understand the history of "pension" with reference to the OCS (Pension) Rules, 1992, as follows:

"10. In *Corpus Juris Secundum*, Volume 70 at page 423, it stated that the title 'pension' includes pecuniary allowances paid periodically by Government to persons who have rendered services to the public or suffered loss or injury in the public service, or to their representatives; who are entitled to such allowances and rate and amount thereof; and proceedings to obtain and payment of such pensions.

A pension is a periodical allowance of money granted by the Government in consideration or recognition of meritorious past service, or of loss or injury sustained in the public service. A pension is a periodical allowance of money granted by the Government in consideration or recognition of meritorious past services, or of loss or injury sustained in the public service. A pension is mainly designed to assist the pensioner in providing for his daily wants, and it presupposes the continued life of the recipient.

In its strict sense a pension is not a matter of contract, and is not founded on any legal liability; it is a mere bounty or gratuity 'springing from the appreciation and graciousness of the sovereign', and it may be given or withheld at the

discretion of the sovereign. It may be bestowed on such persons and on such terms as the law-making body of the Government prescribes, and it is, at most, an expectancy granted by the law. The term 'pension' has been compared and distinguished from 'bonus' 'compensation', 'profits', and 'retirement payment'. A pension fund is to be distinguished from an annuity fund derived in part from voluntary contributions under a statutory opinion to contribute or refrain from contributing.

The term 'pension' is frequently, particularly in recent years, used in the broad sense of retirement pay or compensation in which it may partake of the nature of a contractual right rather than of gratuity, and, as used in this sense with respect to persons in the service of the Government, the term is fully discussed in *Officers g. 92*. A pension is a gratuity only where it is granted for services previously rendered which at the time they were rendered gave rise to no legal obligation.

11. A somewhat discordant note on the question whether pension and gratuity are bounty to be distributed by the Government to its employees on their retirement vis-a-vis the position as indicated in *Corpus Juris Secundum*. A similar view was also expressed in *State of Kerala and others Vrs. Padmanabhan Nair*, AIR 1985 SC 356. It was observed that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment. The view has been recently reiterated in *Dr. Uma Agarwal Vrs. State of U.P. and another*, AIR 1999 SC 1212.

12. It is to be noted that in certain countries wrongful withholding of pension money has been made a criminal offence and it has been observed in some of the western countries that the federal statute making the wrongful withholding of pension money a criminal offence must be strictly construed. The purpose of the statute, it was held, to protect the pensioner against fraud until the unconditional payment of the money to him.

13. In *Halsbury's Laws of England*, Fourth Edition, Reissue— Volume 16, it has been observed on the subject as follows:

"Pension means, a periodical payment or lump sum by way of pension, gratuity or superannuation allowance as respects which the Secretary of State is satisfied that it is to be paid in accordance with any scheme or arrangement having for its object or one of its objects to make provision in respect of persons serving in particular employments for providing them with retirement benefits and, except in the case of such a lump sum which had been paid to the employee, that:

(1) the scheme or arrangement is established by Act of Parliament or of the Parliament of Northern Ireland, or other instrument having the force of law, or

(2) the benefits under the scheme or arrangement are secured by an irrevocable trust which is subject to the laws of any part of Great Britain; or

(3) the benefits under the scheme or arrangement are secured by a contract of assurance or an annuity contract which is made with:

(a) an insurance company to which the Insurance Companies Act, 1982 applies; or

(b) a registered friendly society; or

(c) an industrial and provident society registered under the Industrial and Provident Societies Act, 1965; or

(4) the benefits under the scheme or arrangement are secured by any regulation or other instrument, not being a regulation or instrument having the force of law, made with the authority of a Minister of the Crown or with the consent of the Treasury for the purpose of authorising the payment to persons not employed in the Civil Service of the State of such pensions, gratuities of other like benefits as might have been granted to person so employed; or

(5) the scheme or arrangement is established enactment or other instrument having the force of law in any part of the Commonwealth outside the United Kingdom; and that the provision made to enable benefits to be paid, taking into account any additional resources which could and would be provided by the employer, or any person connected with the employer, to meet any deficiency, is adequate to ensure payment in full of such benefits.

'Pension' includes any part of a pension. 'Pension' does not include:

(i) a payment to an employee which consists of solely of a return of his own contributions, with or without interest;

(ii) that part of a payment to an employee which is attributable solely to additional voluntary contributions by that employee made in accordance with the scheme or arrangement;

(iii) a periodical payment or lump sum, represents compensation under statutory compensation scheme and is payable under a statutory provision, whether made or passed before, on or after 31 July, 1978.

If in any case the Secretary of State is satisfied that benefits under the scheme or arrangement are wholly or mainly provided for the benefit of persons not resident to Great Britain, he may, if he thinks fit and subject to such conditions, if any, as he thinks proper, waive the requirement contained in head (2) above in respect of a scheme or arrangement the benefits under which are secured by an irrevocable trust or the requirements of heads (3)(a), (3)(b) or (3)(c) above in the case of a scheme or arrangement the benefits under which are secured by a contract of assurance or an annuity contract."

10.3. Conceptual understanding of "resignation" vis-à-vis "voluntary

retirement” has been succinctly given by the Hon’ble Supreme Court of India in BSES Yamuna Power Ltd. Vrs. Sh. Ghanshyam Chand Sharma, (2019) 14 SCR 546, in the following manner:

“11. The Court in Senior Divisional Manager, LIC Vrs. Shree Lal Meena (“Shree Lal Meena II”), (2019) 4 SCC 479 elucidated the distinction between resignation and voluntary retirement in the following terms:

“22. ... [quoting RBI Vrs. Cecil Dennis Solomon (2004) 9 SCC 461] In service jurisprudence, the expressions “superannuation”, “voluntary retirement”, “compulsory retirement” and “resignation” convey different connotations. Voluntary retirement and resignation involve voluntary acts on the part of the employee to leave service. Though both involve voluntary acts, they operate differently. One of the basic distinctions is that in case of resignation it can be tendered at any time, but in the case of voluntary retirement, it can only be sought for after rendering the prescribed period of qualifying service. Another fundamental distinction is that in case of the former, normally retiral benefits are denied but in case of the latter, the same is not denied. In case of the former, permission or notice is not mandated, while in the case of the latter, permission of the employer concerned is a requisite condition. Though resignation is a bilateral concept, and becomes effective on acceptance by the competent authority, yet the general rule can be displaced by express provisions to the contrary.” ***”

11. In H.N. Sharma Vrs. Government of NCT, Delhi, vide Judgment dated 21.08.2020 delivered in W.P.(C) No.1724 of 2017, the Delhi High Court referred to S.K. Dua Vrs. State of Haryana, (2008) 3 SCC 44 = (2008) 1 SCR 395, and observed that, the issue before the Supreme Court was whether the appellant was entitled to interest on his retirement benefits which were kept pending due to certain charges pending against the appellant. The retirement benefits in that case were paid to the appellant four years after his superannuation. The emphatic words used by the Supreme Court are set out below:

“14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of “bounty” is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.”

12. On the question of entitlement of interest in the context of withholding of pension and retirement benefits, the Hon'ble Supreme Court in the case of D.D. Tewari Vrs. Uttar Haryana Bijli Vitran Nigam Ltd., (2014) 8 SCC 894 observed as follows:

"4. The learned Single Judge has allowed the writ petition vide order dated 25.08.2010 [CWP No. 1048 of 2010, decided on 25.08.2010 (P&H)] , after setting aside the action of the respondents in withholding the amount of gratuity and directing the respondents to release the withheld amount of gratuity within three months without awarding interest as claimed by the appellant. The High Court has adverted to the judgments of this Court particularly, in State of Kerala Vrs. M. Padmanabhan Nair, (1985) 1 SCC 429 = AIR 1985 SC 356, wherein this Court reiterated its earlier view holding that: (SCC pp. 429-30, para 1)

'1. [the] pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment [to the employees].'

6. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned Single Judge after adverting to the relevant facts and the legal position has given a direction to the respondent employer to pay the erroneously withheld pensionary benefits and the gratuity amount to the legal representatives of the deceased employee without awarding interest for which the appellant is legally entitled, therefore, this Court has to exercise its appellate jurisdiction as there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred [M. Padmanabhan Nair, (1985) 1 SCC 429] to supra. We have to award interest at the rate of 9% per annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent."

12.1. In the case of Union of India Vrs. Dr. J.K. Goel, 1995 Supp. (3) SCC 161 it was observed that:

"Before any interest can be granted on equitable considerations, it is necessary that the facts of the case should be examined to ascertain whether there are any special equities which would justify the grant of such interest although there is no provision in law for such grant."

12.2. In A. Selvaraj Vrs. C.B.M. College, (2022) 4 SCC 627 it has been discussed as follows:

"10. Having heard the learned counsel for the respective parties, we are of the

opinion that as there was a delay in making the payment of retirement benefits and settling the dues for which the appellant employee is not at all responsible, he is entitled to the interest on the delayed payment. Even the Division Bench of the High Court has also observed in the impugned judgment and order that the appellant is entitled to the interest on the delayed payment. However, there is an inter se dispute between the Secretary, Management and the Government as to who is responsible for the delay in making the payment to the appellant and therefore, he has been denied the interest on delayed payment though entitled to."

12.3. In *Dr. Uma Agarwal Vrs. State of U.P.*, (1999) 3 SCC 438 = AIR 1999 SC 1212, the Supreme Court observed as follows:

"We have referred in sufficient detail to the Rules and instructions which prescribe the time-schedule for the various steps to be taken in regard to the payment of pension and other retiral benefits. This we have done to remind the various Governmental departments of their duties in initiating various steps at least two years in advance of the date of retirement. If the rules/instructions are followed strictly much of the litigation can be avoided and retired Government servants will not feel harassed because after all, grant of pension is not a bounty but a right of the Government servant. Government is obliged to follow the Rules mentioned in the earlier part of this order in letter and in spirit. Delay in settlement of retiral benefits is frustrating and must be avoided at all costs. Such delays are occurring even in regard to family pensions for which too there is a prescribed procedure. This is indeed unfortunate. In cases where a retired Government servant claims interest for delayed payment, the Court can certainly keep in mind the time-schedule prescribed in the rules/instructions apart from other relevant factors applicable to each case."

12.4. In paragraph 9 of the Counter-Affidavit, the opposite party No.2 has placed on record the following fact by way of affidavit sworn to by the Additional Tahasildar, Maneswar, Sambalpur on his behalf:

"*** The stand of the Sub-Collector-cum-Special Certificate Officer so far relating to relieve of the petitioner appears to be controversial since relieve may be understood to relieve from the work where the employee working but not from the office where his salary is being drawn and Service Book is maintained. Further, it is evident from the Letter No.12933, dated 07.08.2015 of the Sub-Collector's Office, Sadar, Sambalpur (Annexure-E/2) and Letter No.11174, dated 04.07.2015 of the Sub-Collector's Office, Sadar, Sambalpur (Annexure-F/2) that the Sub-Collector, Sadar, Sambalpur was also the in-charge Special Certificate Officer, Special Certificate Court, Sambalpur. Since the matter of relieve was badly delayed, it was decided to relieve him by the Appointing Authority and accordingly he was relieved vide Order No.2999/ESTT, dated 29.06.2016 (Annexure-8 of the O.A.) ***."

12.5. In the above perspective if the instant case is examined, it is apparent

from the above paragraph contained in the Counter-Affidavit that the opposite party No.2, Appointing Authority, admits that the delay has been occurred in relieving the petitioner. As a consequence of this it can safely be said that disbursement of pension and other retirement dues have been withheld by the Authority concerned for a considerable length of period. Furthermore, the correspondences between different authorities which form part of writ petition as also the Counter-Affidavit clearly reveal that the Appointing Authority was unsure of disbursement of salary and maintenance of Service Book. Even though said fact was brought to the notice by the Special Certificate Officer vide Letter dated 04.07.2015 (Annexure-F/2 of the Counter-Affidavit), the Appointing Authority-Pension Sanctioning Authority delayed in forwarding relevant papers and according sanction. The papers under Annexure-9 series being of the year 2017, it is, thus, observed that the opposite party No.2 having accepted notice for voluntary retirement of the petitioner on 31.10.2013, delayed the matter in according sanction for pension and other retirement dues. This Court, therefore, is of the considered view that the petitioner is entitled to interest on delay in disbursement of legitimate dues in view of settled legal position as discussed above.

CONCLUSION:

13. It is noticed that in the Counter-Affidavit the authority-opposite party No.2 placed blame on the petitioner for having not approached the authority concerned and alleged that "remained silent for a long period to submit his pension paper". However, documents at Annexure-3 series and Annexure-6 to the writ petition stand testimony to the fact that the petitioner has been persistently pursuing the matter with the authorities. The Appointing Authority-Collector, Sambalpur, having accepted the notice for voluntary retirement on 31.10.2013, issued Order for relieving the petitioner of his duties on 29.09.2016. This itself shows lethargic action on the part of the opposite party No.2. This Court has taken note of further fact that the opposite party No.2-Pension Sanctioning Authority with much delay sanctioned provisional pension in OCS (Pension) Form-N prescribed under Rules 65(4), 76(1) and 9 & 15 of OCS (Pension) Rules, 1992 vide Memo No.1829, on 12.07.2017; allowed payment of cash equivalent to leave salary and dearness allowance appropriated to the leave salary as admissible for 300 days of earned leave lying unutilized on the last day of service vide Order No.1944, dated 19.07.2017; and also allowed refund of one-time deposit made under Group Insurance Scheme vide Order No.1946, dated 19.07.2017 under his signature describing himself as "Pension Sanctioning Authority".

Hence, it is observed that the Collector-opposite party No.2 delayed the matter.

14. The sole prayer of the petitioner at this juncture to grant interest with respect to delay in disbursement of amounts is liable to be considered.

14.1. It may be fruitful to refer to the view expressed by the Hon'ble Supreme

Court in *State of Andhra Pradesh Vrs. Dinavahi Lakshmi Kameswari*, (2021) 1 SCR 694, which is to the following effect:

14. The direction for the payment of the deferred portions of the salaries and pensions is unexceptionable. Salaries are due to the employees of the State for services rendered. Salaries in other words constitute the rightful entitlement of the employees and are payable in accordance with law. Likewise, it is well settled that the payment of pension is for years of past service rendered by the pensioners to the State. Pensions are hence a matter of a rightful entitlement recognised by the applicable rules and regulations which govern the service of the employees of the State.”

14.2. In *Pallawi Resources Limited Vrs. Protos Engineering Company Private Limited*, (2010) 3 SCR 847 the Supreme Court with regard to interpretation of a provision in a statute has held as under:

“13. A cardinal principle of statutory interpretation is that a provision in a statute must be read as a whole and not in isolation ignoring the other provisions of that statute. While dealing with a statutory instrument, one cannot be allowed to pick and choose. It will be grossly unjust if the Court allows a person to single out and avail the benefit of a provision from a chain of provisions which is favourable to him. Reference may be made to a constitutional bench decision of this Court in the case of *Prakash Kumar Vrs. State of Gujarat*, (2005) 2 SCC 409. The Court in para 30 of that judgment observed as follows:

‘30. By now it is well settled principle of law that no part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place. It is also trite that the statute or rules made thereunder should be read as a whole and one provision should be construed with reference to the other provision to make the provision consistent with the object sought to be achieved.’

14. We wish to also refer to a latest judgment of this Court reported as *SAIL Vrs. S.U.T.N.I. Sangam and Ors.*, (2009) 12 SCR 929 wherein this Court, very succinctly reiterated the aforesaid position in para

79 as follows:

‘79. The learned Counsel, however, invited our attention to take recourse to the purposive interpretation doctrine in preference to the literal interpretation. It is a well-settled principle of law that a statute must be read as a whole and then chapter by chapter, section by section, and then word by word. For the said purpose, the Scheme of the Act must be noticed. If the principle of interpretation of statutes resorted to by the Court leads to a fair reading of the provision, the same would fulfill the conditions of applying the principles of purposive construction.

15. From these authorities, it is amply clear that a provision in a statute ought not to be read in isolation. On the contrary, a statute must be read as an integral

whole keeping in view the other provisions which may be relevant to the provision in question in order to correctly arrive at the legislative intent behind the provision in question. ***"

14.3. In Dhruba Charan Panda (supra), the Division Bench of this Court has threadbare discussed provisions of the OCS (Pension) Rules with reference to general understanding of "pension" and after taking cognizance of provisions contained in Rules 57, 58, 59, 60, 61, 62 and 65 appearing in Chapter VIII of the OCS (Pension) Rules, observed that:

"Chapter IV deals with conditions of grant of pension. Sanctity is attached to expeditious payment to a pensioner is revealed from the modalities prescribed; some of them being time-bound and even specifying the officials who are to take steps."

In the said case it has been directed as follows:

"We dispose of this application with a direction to the State Government to administratively instruct all the Heads of Departments and concerned officials to ensure that different steps prescribed to be taken under the Rules are rigidly followed and any non-observance thereof is to be strictly viewed. If there is any delay in payment of pension the pensioner shall be entitled to 18% interest per annum for the period of delay and this interest shall be recovered from the person/persons responsible for the delay. While fixing the rate of interest, we have kept in view the minimum bank rate of interest charged for borrowing from bank. This aspect shall also be notified to all concerned. We are sure, if such stringent steps in addition to those, which the State Government may feel necessary to impose, are taken there shall be strict compliance of the requirement of law and in future the old retired persons shall not be required to move in the corridors of the Courts with tears in their eyes and a faint ray of hope of getting remedy early, and not posthumous."

14.4. As it appears such caveat has not gone down well with the authorities in the present case and have not dealt with the matter of the petitioner with dispatch.

14.5. In yet another occasion this Court in Division Bench in the case of Balaram Jena Vrs. Union of India, W.P.(C) No.12927 of 2012 vide Order dated 22.04.2022, taking note of the decision rendered in Dhruba Charan Panda (supra), observed as follows:

"9. In view of the aforesaid facts and circumstances, the petitioner is entitled to get interest on delayed payment of pensionary dues at the rate of 9% per annum from the date of due till the actual payment is made. The opposite parties are directed to calculate and pay the same to the petitioner within a period of four months from the date of production of certified copy of this order."

15. For the reasons stated above, bearing in mind above legal position with regard to delay in disbursement of retirement benefits/dues and interest payable

thereon, this Court is inclined to award interest at the rate of 9% on the delayed payment of pension and other amounts from the date of entitlement till the date of the actual payment. If this amount is not paid within six weeks from the date of receipt of a copy of this order, the same shall carry interest at the rate of 18% per annum from the date the amount fell due.

15.1. With the above observations and directions, this writ petition stands allowed.

15.2. In the circumstances, there shall be no order as to costs.

.....