
(2015) 04 OHC CK 0021
In the Orissa High Court
Case No : Writ Petition(C) No. 201 of 2003

Sura Khuntia

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 06-04-2015

Acts Referred:

Citation : (2015) 04 OHC CK 0021

Hon'ble Judges : S.N. Prasad, J.

Bench : Single Bench

Final Decision : Disposed off

Judgement

S.N. Prasad, J.—Petitioner has approached this Court, inter alia, in this writ petition for the following prayers:

"(1) Issue rule NISI calling upon the opposite parties to show cause as to why the impugned Notification Dt. 18th October, 2001 particularly clause 3(b) under Annexure-4 shall not be quashed.

(2) If the opposite parties do not show cause or shows insufficient case, issue a writ in the nature of CERTIORARI in quashing the impugned Notification Dt. 18th October, 2001 particularly clause 3(b); and

(3) Issue a writ of MANDAMUS directing the opposite parties to grant family pension in favour of the present petitioner in terms of the Orissa Aided Educational Employees Retirement Benefit (Amendment) Rules, 1998."

2. At the outset it has been submitted by learned counsel for the petitioner that he is not pressing first and second prayer made in the writ petition and he has confined his prayer for grant of pensionary benefits in view of the terms and conditions of the Orissa Aided Educational Employees Retirement Benefit (Amendment) Rules, 1998.

3. It has already been settled by this Court in the case of Subarna Dibya and Others Vs. State of Orissa and Others, wherein at paragraph-20 it has been

held:

"All the members of teaching and non-teaching staff of recognized non-government high schools which came under the direct payment system are governed by the Orissa Aided Educational Institutions Employees' Retirement Benefit Rules, 1981, which came into force with effect from 1.4.1982. Sub-rule(2) of Rule-8 of the said Rules stipulates that an employee shall be eligible for pension if the period of his qualifying service up to the date of his retirement is 10 years or more. The rate of pension was also stipulated in the said Rules.

Without entering into the arena of controversy, it would suffice to hold that the family of a member of teaching and non-teaching staff of an aided educational high school, who was otherwise eligible to receive pension, shall receive family pension in consonance with amended Rules."

4. Order passed in the case of Subarna Dibya and others v. State of Orissa and others referred to above has been challenged before the Hon'ble Supreme Court being S.L.P. 14265-14326 of 2005 and the same has been disposed of vide order dated 19.2.2015.

5. In the circumstances, learned counsel for the petitioner prays for issuance of direction for release of family pension.

6. Learned counsel for the opposite parties submits that the case of the petitioner may be considered in the light of the decision referred to above and if the petitioner is entitled to get family pension, the same shall be released in favour of the petitioner.

7. On such submission and without going into merits of the case, the writ petition is disposed of giving liberty to the petitioner to approach before the opposite party No. 2, Director, Elementary Education, State of Odisha, Bhubaneswar bringing therein the entire facts along with supported documents enclosing copy of the judgment in the case of Subarna Dibya and Others Vs. State of Orissa and Others, within a period of three weeks from the date of receipt of copy of this order.

8. On receipt of such representation, opposite party No. 2 shall take a decision within a reasonable period, preferably within a period of six weeks from the date of presentation of such representation.

9. If the authority finds that the petitioner is entitled to get family pension, monetary benefits shall be released in favour of the petitioner within a reasonable period, preferably within a period of further period of four weeks. If the authority finds that the petitioner is not entitled to any monetary benefits, same shall be communicated to the petitioner within the said period.

10. With the aforesaid observations and directions, the writ petition is disposed of.