



IN THE HIGH COURT OF ORISSA AT CUTTACK

WA No.702 of 2023

State of Odisha & Others

....

Appellants

Represented by Adv.—
Mr. S.B. Panda, Advocate

-Versus -

Dr. Balaram Sahu

....

Respondent

Represented by Adv.—
Mr. Krishna Ch. Sahu, Advocate

CORAM:

HON'BLE MR. JUSTICE MANASH RANJAN PATHAK

AND

HON'BLE MR. JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

15.09.2025

(Hybrid mode)

Order No.

I.A. No.1799 of 2023

02.

1. Pursuant to the notice issued by the Coordinate Bench in the appeal by order dated 01.05.2023, the respondent has appeared through the learned counsel, Mr. Sahu, who is on record.

It is submitted by the learned Additional Government Advocate for the appellant-State that he is relied on the decisions of the Hon'ble Apex Court in *State of Odisha Vrs. Sudhansu Sekhar Jena; 2025 INSC 259* and in case of *State of Odisha Vrs. Madhurima Panigrahi: SLP (Civil) No.9008 of 2024*; wherein hundreds of SLP(P)s have been allowed setting aside the order passed by this Court in Writ Appeals not condoning delay and dismissing the writ appeal at the stage of fresh admission. The Apex Court has condoned the delay in filing the Writ Appeals in



each case and has remanded those appeals to this Court to be heard on merits.

2. Learned counsel for the respondent vehemently opposes the prayer for condonation of delay submitting that the causes shown are too frugal and the I.A. may not be allowed.

3. Having gone through the I.A. and hearing the learned counsel for the parties and considering the judgments of the Hon'ble Apex Court, in *State of Odisha Vrs. Sudhansu Sekhar Jena; 2025 INSC 259* and *State of Odisha Vrs. Madhurima Panigrahi: SLP (Civil) No.9008 of 2024*; we are of the view that the delay in filing the appeal should be condoned and accordingly condoned. In any event, condonation of delay in filing the appeal does not add any further merit to the case of the appellant.

4. The I.A. is accordingly disposed of.

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5. It is submitted by the learned Additional Government Advocate that the order impugned passed on the very first day itself without giving any opportunity to the opposite parties to assist the Court regarding the facts involved or the question of law. Without any pleadings filed on behalf of the opposite parties, the learned Single Judge allowed the writ petition, solely based on the submission of the learned counsel for the respondent-petitioner that the matter is covered.

6. It is submitted that the order passed by the learned Single Judge is contrary to the provisions of The Orissa Civil Services (Pension) Rules, 1992 as amended w.e.f. 30.09.2005. It is submitted when otherwise the writ petition does not give the particulars as how the petitioner's case (in the writ petition) is



covered by the decision of the learned OAT dated 24.04.2017 in O.A. No.2634/2636 of 2016. The Rule-3, sub-Rule-4 which is reproduced herein: -

“(4) Notwithstanding anything contained in these rules, all persons appointed under the Government of Odisha with effect from 1st day of January, 2005 shall not be eligible for pension as defined under sub rule (1) of rule 3 of the said rules but shall be covered by the defined contribution pension scheme as specified below:

- (i) The monthly contribution would be 10% of the salary and Dearness Allowance to be paid by the employee and the Government would also provide a matching contribution. The contribution so made would be deposited in a non withdrawable pension tier-I account. Such funds will be invested by pension fund managers as approved by Pension fund Regulatory and Development Authority (P.F.R.D.A.) under different categories of scheme which would be a mix of debt and equity. The fund managers would give out easily understood information about the performance of different investment schemes so that the individual Government employee would be able to make informed choices about which scheme to choose.*
- (ii) In addition to the above provision, each individual may also have a voluntary tier-II withdrawable account at his option. This option is provided as General Provident Fund will be withdrawn for employees recruited to the State Government Service with effect from 1st January, 2005. Government will make no contribution into this account. In tier –II system, the individual may subscribe 10% of his salary and these assets would be managed through exactly the above procedure. However, the employee would be free to withdraw part or all of second tier of his money at any time. This withdrawable account does not constitute pension investment and would attract no special tax treatment.*
- (iii) At the time of retirement, Government servant will receive the lump sum amount of 60% deposited in pension tier-I account as pension wealth and it is*



mandatory to the Government servant to invest remaining 40% of his pension wealth to purchase as annuity from an Insurance Regulatory and Development Authority regulated life insurance company. The annuity shall provide for pension for the lifetime of the employee and his dependent parents and his spouse at the time of retirement. The individual would receive lump sum of the remaining pension wealth, which he would be free to utilise in any manner. Individuals would have the flexibility to leave the pension system prior to age of 58 years or 60 years as the case may be. In such case the mandatory annuitisation would be 80% of the pension wealth.

[Provided that above provisions shall not apply to the persons who are appointed under job-contract and work charged establishment prior to 01.01.2005 and brought over to the regular establishment on or after 01.01.2005]”.

7. In response, the learned counsel Mr. Sahu, appearing for the respondent interjects when we record the submission of the appellant submits that the submissions made at bar by the learned Additional Government Advocate are incorrect. The original applications was transferred to the High Court after abolition of the Odisha Administrative Tribunal, the counter and other pleadings were complete. Thereafter, the matter has been decided.

8. On perusal of the writ petition, it is apparent that after being it was transferred from the Odisha Administrative Tribunal presented on 10th January, 2022 before this Court, the learned Single Judge took up the matter, which is the first order passed by this Court: the order dated 25.08.2022 passed in W.P.C.(OA) No.808 of 2017. The following was directed: -

“The matter is taken up through hybrid mode.

2. Mr. K.C. Sahu, learned counsel for the petitioner states that this question has already been decided by the tribunal in O.A. Nos.2634 and 2636 of 2015 disposed of on 24.04.2017. Against



the said order, though State preferred W.P.(C) No.40902 of 2021, the same was dismissed, vide order dated 27.04.2022. Therefore, this writ petition may be disposed of in the light of the aforesaid orders.

3. In view of above submission, this writ petition stands disposed of in terms of the order passed by the tribunal in O.A. Nos. 2634 and 2636 of 2015 disposed of on 24.04.2017, which has been affirmed by this Court, vide order dated 27.04.2022, in W.P.(C) No.40902 of 2021."

9. Since, it is alleged by the learned counsel for the respondent that as a matter of fact, pleadings were there before the learned Court to consider and the matter was heard on merit. We requested him to go through the brief of the Court. He has gone through the same, apparently, the learned counsel for the respondent was the counsel who had appeared in the writ petition and the above order was passed and definitely, there is no reference to any counter affidavit or any further pleadings.

From the order passed by the learned Single Judge, it is indicated that the petitioner relied upon the decisions rendered by the Odisha Administrative Tribunal (since abolished) in O.A. No.2634 and 2636 of 2015, disposed of on 24.04.2017. It was further submitted before the learned Single Judge that said orders of the learned Tribunal was challenged by the State in W.P.(C) No.40902 of 2021 which were also dismissed. Accordingly, it was directed and the writ petition was disposed of.

10. The learned counsel for the respondent also raises an issue that how the Coordinate Bench could stay the operation of the order without notice being sufficient. In our considered opinion, the established proposition of law is that the appellate Court issued notice in the appeal and the connected I.As. has all the



power to stay the operation of order impugned which has been done by the Coordinate Bench by order dated 01.05.2023.

Further we notice that before the Coordinate Bench, the order of the Hon'ble Apex Court dated 08.02.2023 passed in SLP(C) Diary No(s).26525 of 2022 (Annexure-7) to the writ appeal was placed. By the said order, the Apex Court had stayed operation of the order dated 27.04.2022 passed by this Court in W.P.(C) No.40902 of 2021.

11. It is submitted by the learned counsel for the respondent that the matter has since been decided by the Apex Court in good number of cases, list of which he has filed by filing memo dated 15.09.2025. Copy of the memo is served. He relies on the judgment passed by the Coordinate Bench of which one of us (M.S. Sahu, J) was a Member, dated 25.07.2025 passed in Writ Appeal No.2902 of 2024 along with the memo filed today in Court, he has annexed copies of the said judgment dated 25.07.2025. The memo is served on the learned Additional Government Advocate enable him to obtain instruction.

12. List on 14th October, 2025 along with W.A. No.389 of 2023, W.A. No.901 of 2023, W.A. No.1562 of 2023 and W.A. No.2998 of 2024, as they were listed today, under the same heading.

The learned AGA shall obtain instruction.

(Manash Ranjan Pathak)
Judge

(Mruganka Sekhar Sahoo)
Judge.