



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10971 of 2024

Kashinath Mahapatra *Petitioner*
Mr. Gopal Charan Mohanty, Advocate

-versus-

State of Odisha & Others ... *Opp. Parties*
Mr.U.C. Behura, AGA

CORAM:
JUSTICE DIXIT KRISHNA SHRIPAD

ORDER
09.10.2025

Order No.

05

Petitioner has scripted his prayer as under:-

“Under the above circumstances and for ends of Justice it is therefore prayed that this Hon’ble court may pleased to admit this Writ petition and after hearing pass an order to quash the order dated 16.1.2024 passed by the D.E.O. Kandhamal which is placed under Annexure-8”

Learned counsel for the petitioner vehemently argues that post retirement, no amount could be recovered from the gratuity/pension of the petitioner, much less sans notice. In support of this, he cites decisions of the Apex Court in *State of Punjab v. Iqbal Singh*; AIR 1976 SC 667 & *State of Punjab v. K.R. Erry*; AIR 1973 SC 834.

Learned AGA Mr.Behura, drawing attention of the Court to the counter affidavit filed by the opposite parties, more particularly the order dated 16.01.2024 at Annexure-8,



submits that petitioner was given additional amount, which he was not entitled to because of his lacking a particular qualification; the pay of the petitioner was re-fixed eventually resulting into recovery of certain amount from him, which was paid in excess; he had laid a challenge to the same before the Orissa Administrative Tribunal, which denied relief to him; he also took the matter in challenge before the Division Bench of this court and it met the same fate. Mr.Behura submits that the public money cannot be retained by a public servant especially when his challenge to re-fixation of pay has been negatived and as a corollary of that, recovery has been done. So contending, he seeks dismissal of the petition.

Having heard learned counsel for the parties and having perused the petition papers, this Court is broadly in agreement with the submission of Mr.Behura, learned AGA that this petition is nothing but a shadow boxing, essentially disputes having already been settled by the Tribunal and by affirmation by the Division Bench of Tribunal's order.

The above being said, there is a normative process for recovery from the gratuity or pension once the public servant retires. Counsel for the petitioner repeatedly raised a question as to why no opportunity of hearing was given to his client before effecting the recovery. Principles of



natural justice are sacrosanct and the Apex Court in *Menka Gandhi v Union of India*; AIR 1978 SC 597, has held that Court in their discretion may afford post decisional hearing in appropriate cases.

In the above circumstances, this petition is disposed off directing the opposite party no.5 to conduct a post decisional hearing in the matter after giving an opportunity of representation to the petitioner. This is to be accomplished within a period of eight (8) weeks. Whether the amount recovered should be handed back to the petitioner would depend upon the enquiry. All contentions of the parties are kept open.

Web copy of the order to be acted upon by all concerned.

(*Dixit Krishna Shripad*)
Judge

Basu

Signature Not Verified

Digitally Signed
Signed by: BASUDEV NAYAK
Designation: ASST. REGISTRAR-CUM-SR. SECRETARY
Reason: Authentication
Location: HIGH COURT OF ORISSA : CUTTACK
Date: 10-Oct-2025 11:01:09

