



IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.20276 of 2025

Dismanta Kumar Das

.....

Petitioner

Represented By Adv. -
Prabin Das

-versus-

1) State Of Odisha

.....

Opposite Parties

2) State Of Odisha
3) State Of Odisha
4) Vice Chairman, Cuttack
Development Authority
5) Secy, Cuttack Development
Authority

Represented By Adv. –
Mr.D.N.Lenka,AGA

CORAM:

THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

Order
No.

ORDER

24.07.2025

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the State-Opposite Parties. Perused the writ petition as well as the documents annexed thereto.
3. The present writ petition has been filed by the Petitioner with the following prayers:-

“It is, therefore, prayed that this Hon'ble Court may graciously be pleased to admit the Writ Petition and issue RULE NISI, thereby calling upon the opposite parties, to show cause as to why the petitioner shall not be granted with the retiral benefits



including pension to be paid regularly and will not be further directed to pay interest at such rate as this Hon'ble Court may deem fit and proper over and above the amount of arrear pension, to be paid within a stipulated time and on their failure to show cause or showing insufficient cause, to make the said RULE absolute, by directing the opposite parties, to pay the pension to the petitioner and release the arrear pension within a stipulated time along with interest @ 12 % from the date when such amount fell due till the date of disbursement thereof and may also be pleased to pass such other or further order(s)/direction(s), as may be found just and proper in the facts and circumstances of the case."

4. Learned counsel for the Petitioner, at the outset, contended that initially the Petitioner was appointed as an employee under the Cuttack Development Authority prior to 01.01.2005. He further contended that the Petitioner is entitled to get pensionary benefits. However, the Cuttack Development Authority introduced a rule, namely, Odisha Development Authorities (Retirement Benefit of the Employees) Rules, 2015 w.e.f. 11.08.2015. The vires of the aforesaid rule was assailed before the Division Bench of this Court in W.P(C) No.18559 of 2015. The Hon'ble Division Bench vide judgment dated 04.12.2023 declared the aforesaid rule to be ultra vires and in Paragraph-81 of the judgment laid down a detailed



guideline with regard to the employees of the Cuttack Development Authority. For better appreciation, such guideline is extracted herein below:-

“81. In view of the discussions, as above, the Odisha Development Authorities (Retirement Benefit of the Employees) Rules, 2015 under Annexure-6 to the writ petition is hereby declared ultra vires to the provisions contained in the Odisha Development Authorities Act, 1982 as well as Articles 14 & 16 of the Constitution of India, 1950 and as a logical corollary, the following consequences ensue:

- i. Employees working under any Development Authority constituted under the Odisha Development Authorities Act, 1982, who are in receipt of the pensionary benefit at par with their counterparts in State Government cannot be affected by any subsequent Rule; and*
- ii. In the light of the judgment in the case of Shri **Ananda Dash** (supra), the employees, who had joined in service prior to 17.09.2005, i.e. the date of notification of the amendment in SubRule (4) of Rule (3) of the Odisha Civil Services (Pension) Rules, 1992, are to get their retiral benefits at par with their counterparts in the Government inasmuch as they cannot be equated with the employees working in an industry or factory establishment in view of the ratio of the decision of the co-ordinate Bench in the case of **Cuttack. Development Authority Vs. Regional Provident Fund Commissioner** (Supra) and **Employees Provident Fund Organization Vs. Raipur Development***



Authority (Supra).

iii. Employees working under any Development Authority, who have joined after 17.09.2005, would be entitled to the benefits under the new structured defined contribution pension scheme as applicable to their counterparts in the State Government in terms of the Odisha Civil Services (Pension) Rules, 1992.

Accordingly, it is held that the petitioner, being an employee appointed prior to 01.01.2005, is entitled to get pension, as is being availed by the similarly situated employees under the State Government. Let the retrial benefits be disbursed in favour of the petitioner, who is stated to have been retired on superannuation during the pendency of the writ petition, in accordance with law, within a period of the three months from the date of receipt of the copy of judgment."

5. Learned counsel for the Petitioner, at this juncture, contended that the judgment of the Division Bench of this Court was assailed before the Hon'ble Supreme Court preferred by the Cuttack Development Authority. Challenging before the Hon'ble Supreme Court by the Cuttack Development Authority by filing SLP(C) Diary No.30536 of 2024. Learned counsel for the Petitioner further submitted that the aforesaid SLP has already been disposed of in the meantime and the judgment of the Hon'ble Division Bench has been affirmed by the Hon'ble Supreme Court. He further



contended that in the meantime the Petitioner approached the Opposite Party No.4- Cuttack Development Authority for grant of pensionary benefit. However, the Opposite Party No.4 has intimated the Petitioner that since he is not the Petitioner before this Court in W.P.(C) No.18559 of 2015, he is not entitled the benefits accruing to the Petitioner in that case pursuant to the judgment dated 04.12.2023.

6. Taking into consideration the submissions made by the learned counsels appearing for the respective parties and on a careful analysis of the legal position, further on a close scrutiny of the judgment dated 04.12.2023, it appears that the Division Bench of this Court has already held the Odisha Development Authorities (Retirement Benefit of the Employees) Rules, 2015 to be ultra vires and the direction in Paragraph-81 of the said judgment, which has been quoted hereinabove, applies to all the employees of the Cuttack Development Authority.

7. In such view of the matter, this present writ petition is being disposed of by granting liberty to the Petitioner to approach the Opposite Party No.4 by filing a detailed representation taking therein all the grounds along with a certified copy of this order within three weeks from today. In such eventuality, the Opposite Party No.4 shall consider the case of the Petitioner in the light of the direction given by the Hon'ble Division Bench in Paragraph-81 of the judgment dated



04.12.2023 passed in W.P.(C) No.18559 of 2015 and the representation of the Petitioner be disposed of by passing a speaking and reasoned order within a period of three months from the date the Petitioner approaches the Opposite Party No.4. The final order so passed on the representation of the Petitioner shall be communicated to the Petitioner within a week thereafter.

8. Since the order is passed in the absence of the contesting Opposite Party No.4, liberty is given to the Opposite Party No.4 to seek modification/alteration of the order in the event any material information is suppressed by the Petitioner.

9. With the aforesaid observation and direction, the writ petition is disposed of.

(Aditya Kumar Mohapatra)
Judge

RKS