



IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C). No. 21857 of 2025, W.P.(C) No.25891 of 2024 &
W.P.(C) No.22319 of 2025**

***Santosh Kumar Behera
(In WPC No.21857 of 2025)***

***Sasmita Sarangi and Anr.
(In WPC No.25891 of 2024)***

***Rabindra Nath Sahoo
(In WPC No.22319 of 2025)***

***Petitioner
Mr. S. K. Das, Advocate***

-versus-

State of Odisha and Others

***Opp. Parties
Mr. Subha Bikash Panda, AGA***

**CORAM:
JUSTICE KRISHNA SHRIPAD DIXIT
JUSTICE CHITTARANJAN DASH**

Order No.

**ORDER
23.02.2026**

04. The essential grievance of the Petitioners, in these Petitions, is as to their non-inclusion in the Old General Provident Fund (Orissa) Rules, 1938 and the Orissa Civil Services (Pension) Rules, 1992. That is how the prayers in the Petition have been roughly drafted.

2. Learned Advocates appearing for the Petitioners place reliance on office order dated 03.09.2025 in support of their submission that in terms of a Co-Ordinate Bench's order in W.P.(C) No.15433 of 2012 between ***Anand Dash and Others vs. State of Orissa and Others*** disposed off on 24.04.2013, the



prayer needs to be accorded to these Petitioners whereas the Opposite Parties are taking a stand that the relief was granted to the litigants in the cognate case only because of Court order further and that relief cannot be granted to the Petitioners herein because they were not parties to the said order. They submit that in view of decision of the Apex Court in ***State of Karnataka v. C. Lalitha***, (2006) 2 SCC 747, the relief granted to a sets of employees has to be accorded to the other sets similarly circumstanced, derogatory points constituting exceptions.

3. Mr. Panda, learned AGA appearing for the Opposite Parties submits that a short accommodation be granted to file the counter. We do not agree with this because in one of the matters, i.e. W.P.(C) No.25891 of 2024, they have already filed their counter specifically stating that the Petitioners cannot be granted relief in the absence of Court order. Further, at this stage, he draws our attention to Paragraph Nos.4 & 5 of the Counter-Affidavit stating that those, who have been appointed on and after 01.01.2005, are not entitled to seek refuge under the Old Rules.

4. Having heard learned counsel for the parties and having perused the petition papers, we are inclined to grant indulgence in the matter, inasmuch the very contention which Mr. Panda, learned AGA has now put forth before us has been treated by the Co-Ordinate Bench in **Anand Dash's** case at Para-15, 16, 17 & 18 which read as under:

“15. In a large number of cases, the Hon'ble apex Court has categorically laid down that the right of an employee, which accrued in his favour on the date of appointment,



cannot be taken away by the amending provisions of the Rules concerning the service with retrospective effect. An employee, while entering into service, is subjected to the condition of service as on the date, when he joins. Any right given to such employee under the provision of any Act or Rules governing the employment, if taken away by amending such Rules with retrospective effect, the same would be violative of Articles 14 & 16 of the Constitution and it would amount to an arbitrary and unreasonable action.

16. In the case at hand, as already stated above, all the petitioners joined in their due assignments on 02.04.2005 by which date, the amended Rules were not existing. The said amended Rules, which, were introduced by Notification dated 31.08.2007 and 17.09.2005, could not have been given retrospective effect by stating that they will come into operation from 01.01.2005, which is prior to the date, when the petitioners joined in their new assignments,

17. We are, therefore, of the considered view that the said amendments brought to the General Provident Fund (Orissa) Rules, 1938 and the Orissa Civil Service (Pension) Rules, 1992 will not apply to the petitioners, who will be governed by the said Rule as it existed on the date of their joining in service prior to the amendments brought into those Rules.

We also find that the opposite parties-State have discriminated the petitioners by allowing the benefits under the old Pension Rules and General Provident Fund (Orissa) Rules in the case of 13 regularly recruited OES officers, though they have been appointed on 14.02.2005 and joined in the Government service much after 01.01.2005. The said action on the part of the State also amounts to discrimination and violates Articles 14 & 16 of the Constitution of India.

18. We, therefore, direct that the petitioners will be governed by the provisions of the old General Provident Fund (Orissa) Rules, 1938 and the Orissa Civil Service (Pension) Rules, 1992 as it stood prior to the amendments brought into the same and will be entitled to all the benefits, which were provided thereunder prior to such amendments.”

4.1. Learned Advocates appearing for the Petitioners are right in placing reliance on the office order dated 03.09.2025, which is reproduced in its entirety in view of the significance it has on the issue debated before us.



“OFFICE ORDER

Dated Bhubaneswar the 03 SEP 2025

No. VJ-86/2022-14279 /L. Whereas, the petitioner Sri Sitaram Mohapatra was appointed on 16.08.2005 as Process Server in the Court of Adhoc Addl. District and Sessions Judge, Fast Track Court No.3. Bhubaneswar and presently working as Process Server, O/o-2nd Addl. District Judge, Bhubaneswar has filed W.P.(C) No.6881 of 2024 before the Hon'ble Orissa High Court, Cuttack to allow his service to be governed under the coverage of the Odisha Civil Service (Pension) Rules, 1992 (Prior to amendment in Notification No. 44451/F dated 17.09.2005) instead of the New Restructured Defined Contribution Pension Scheme as provided in the OCS (Pension) Amendment Rules, 2005;

And whereas, Hon'ble High Court vide their Order No. 01 dtd 22.04.2024 have clarified that the petitioner in view of the fact that he had joined in service prior to 17.09.2005, he is entitled to the benefit as has been prayed for.

And Whereas, in W.P. (C) No. 15433/2012 (Anand Dash and others-Vrs-State of Odisha and Others), the Hon'ble High Court observed that the Notification dated 17.09.2005 should not be applicable with retrospective effect as the amended Rules has come into operation from 01.01.2005, in the case of the petitioners. Hon'ble Supreme Court in SLP(C) Nos. 35462-35464/2014 dismissed the Special Leave Petitions where the State Government challenged the order passed in the said Writ Petition;

And whereas Finance Department has concurred in OWSAS File No.FIN-GS2-PEN-0002-2023 to bring the services of petitioner under the provisions of the OCS (Pension) Rules, 1992 and GPF (Orissa) Rules, 1938.

In compliance to the orders passed by the Hon'ble High Court in the present case, Government have been pleased to decide to govern the service of the petitioner (Sri Sitaram Mohapatra) under the coverage of the OCS (Pension) Rules, 1992 and the GPF (Orissa) Rules, 1938 from the date of his joining instead of the new pension scheme namely the OCS (Pension) Amendment Rules, 2005.”

In the above circumstances, these Petitions are allowed and relief as is being granted to litigants in Ananda Dash's case is directed to be accorded to the Petitioners herein within an outer limit of eight weeks. However, liberty is reserved to the



opponents to ascertain the facts matrix in the light of judgment in Anand Dash.

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

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge

AKPradhan