



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.25294 of 2024

Kalyani Das

....

Petitioner(s)

Miss I. Tripathy, Adv.

-versus-

State of Odisha & Ors.

....

Opposite Party(s)

Miss Gayatri Patra, ASC

Mr. Sudhir Kumar Patra, Adv.

CORAM:

DR. JUSTICE S.K. PANIGRAHI

ORDER

10.12.2024

Order

No.

02. 1. This matter is taken up through hybrid arrangement.
2. In filing this Writ Petition, the Petitioner being a retired employee, has made the following prayer:-

“The petitioner, therefore, prays that your Lordships would be graciously pleased to issue Rule Nisi calling upon the opposite party to show cause as to why the sub-rule (1) of Rule 7 of the Orissa civil Services (Communication of Pension) Amendment Rules, 2015, being contrary to the interest of the petitioner as the commuted value of pension is being recovered within 8 years and 5 months (without interest) or 10 years (with interest) but the same is continued to be recovered for 15 years by the opposite parties, shall be declared as illegal and arbitrary being ultra-vires to the Constitution of India;

And further be pleased to issue an appropriate Writ declaring the sub-rule (1) of Rule 7 of the Orissa Civil Services (Commutation of Pension) Amendment Rules, 2015 which provides for restoration of commuted portion of pension after a period of 15 years as ultra vires as the same cause undue hardship to the petitioner and unjust enrichment to the state / opposite parties;

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Date: 11-Dec-2024 17:37:22





And further be pleased to issue a Writ in the nature of Mandamus directing the opposite parties to refund the excess recovered amount of the commuted portion of pension beyond July, 2021 (without interest) or by February, 2023 (with interest) along with interest @ 18% per annum in the interest of justice;

And further be pleased to direct the Opposite Parties to restore the full pension of the petitioner after July, 2021 (without interest) or by February, 2023 (with interest).

4. In such view of the matter, let notice be issued to the Opposite Parties.

5. Learned counsel for the State waives of notice on behalf of the Opposite Party Nos.1 & 3. Let two spare copies of the brief be served on him within three working days hence.

6. Mr. Sudhir Kumar Patra, learned counsel also waives of notice on behalf of the Opposite Party No.2. Let an extra copy of the brief be served on him within three working days hence.

7. Issue notice to the Opposite Party No.4 by Registered Post with A.D/Speed Post making it returnable by 14th January, 2025. Requisites for issuance of notice shall also be filed within the time stipulated hereinabove.

8. List this matter on 15th January, 2025.

I.A. No.13575 of 2024

9. Issue notice as above.

10. Accept one set of process fee.

11. As an interim measure, this Court directs the Opposite Parties not to recover/deduct any amount from the pension

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of the present Petitioner till the next date of listing of this matter.

(Dr. S.K. Panigrahi)
Judge

Ayaskanta

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