



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.3396 of 2024

*State of Odisha, represented through
its Secretary to Government of
Odisha, Revenue & Disaster
Management Department & Others Appellants*

Mr.Satya Brata Mohanty, AGA

-versus-

Rajkishore Parida & another Respondents
Mr.Prafulla Ku. Mohapatra, Advocate

CORAM:

JUSTICE KRISHNA SHRIPAD DIXIT

JUSTICE CHITTARANJAN DASH

Order No.

01.

ORDER

23.02.2026

W.A. No.3396/2024 & I.A. No.8749/2024

State and its functionaries are in this Intra-Court Appeal for calling in question a learned Single Judge's order dated 07.02.2024 whereby Respondent No.1's W.P.(C) No.2246 of 2024 having been favoured, the relief has been accorded to him as under:

"5. Considering the submissions made, this Court observes that the order dt.17.10.2023 under Annexure-7 is not sustainable in law and the same is hereby quashed and the matter is remanded back to the Secretary to Government of Orissa, Revenue & Disaster Management Department, Bhubaneswar-Opposite Party No.1 to reconsider the case of the Petitioner taking into account Annexures-3 and 4 as well as the fact that the



similarly situated persons, namely, Dharnidhar Rath, Gunanidhi Swain & others, who stand in a similar footing like that of the petitioner vide Annexures-3 & 4 have already been extended with such benefits. In the event petitioner is on similar footing with the persons vide Annexures-3 & 4, who have been extended with such benefits, the Opposite Party No.1 shall consider the same and extend such benefit to the petitioner in accordance with law keeping in view the orders vide Annexure-3 & 4 within a period of six weeks from the date of production of certified copy of this order. It is needless to mention here that the case of the petitioner shall be considered at par with Dharanidhar Rath keeping in view the judgment of this Court in Rajalaxmi Ranasingh in WPC(OAC) No.2677 of 2008 as well as O.J.C. No.13474 of 2001 and dispose of by passing a speaking and reasoned order. Any decision so taken on the said representation shall be communicated to the petitioner within a period of two weeks thereafter.

6. With the aforesaid observation/direction, the writ petition is disposed of."

The Appeal has been filed with a long delay of 285 days and an application in I.A. No.8749/2024 supported by an affidavit accompanies the Appeal Memo seeking condonation thereof.

2. Learned AGA Mr.Mohanty, in his usual style, vehemently argues that the impugned order is liable to be set at naught since it tends to give Rule 18(6) of Odisha Civil Services (Pension) Rules, 1992, a retrospective effect



inasmuch as when this Amended Rule was enacted, the Respondent-employee had demitted office on attaining the age of superannuation on 11.07.1992. He also tells us that howsoever long a service might have been rendered, unless the same is taken cognizance of by the Rule Maker, no relief of the kind could have been granted by the learned Single Judge and therefore, the interference at our hand is eminently warranted. He also mentions of delay & latches with which writ petition was presented.

3. Counsel for the Respondent-employee repels the above contentions making submission in justification of the impugned order. He tells us that the question of delay & latches would pale into insignificance, the Appellants being the Model Employer in terms of Apex Court decision in *Bhupendra Nath Hazarika v. State of Assam*, AIR 2013 SC 234; the amount payable by way of pension is not a bounty vide *D.S. Nakara v. Union of India*, AIR 1983 SC 130 and that the Model employer holds the terminal benefits in trust for the retiree and therefore, the principle of delay suit as would govern a money suit, have to stay miles away. Lastly, he places at our hands a Coordinate Bench in OJC No.13471 of 2001 between State of Orissa v. Dharanidhar Rath, disposed off on 29.09.2011, which learned Single Judge also has referred to at paragraph-5 of the impugned



order.

4. Having heard learned counsel for the parties and having perused the Appeal papers, we decline indulgence in the matter for more than one reason:

4.1. Firstly, the Appeal has been filed after brooking an inordinate delay of 285 days. Although an application supported by affidavit is moved seeking its condonation, we do not propose to condone, inasmuch as it contains only routine reasons. That apart, in matters like this, where a person has put in a long & spotless service for more than 32 years, he cannot be put to trouble by entertaining an Appeal belatedly filed by the employer. Even merits also are lacking in the main matter. Keeping in view all that, we reject the application for condonation of delay. However, still we would like to undertake examination of the matter on merits.

4.2. The Respondent, a poor employee has put in an unblemished service of 32 + years, i.e., during the period from 19.12.1959 and 11.07.1992. Our Constitution, through the Directive Principles, provides for of human treatment of employees workers. That apart, the Appellants happen to be the State & its functionaries, who have to conduct themselves as Model Employer vide Bhupendra Nath



Hazarika *supra*. Further, the State cannot create a sub-class within the class of pensioners who do constitute one homogenous community for all practical purposes vide D.S. Nakara *supra*. Therefore, the contention that Rule 18(6) of 1992 Rules covers only those, who gained entry into public service post their promulgation, would not advance the case of Appellants.

4.3. The other reason is that the decision of Coordinate Bench in State of Orissa v. Dharanidhar Rath *supra*. Learned Single Judge has structured the impugned order on the basis of this decision and that cannot be faltered in any way, inasmuch the like cases have to be decided alike. We are told at the Bar that this decision has been affirmed by the Apex Court in SLP No.12467/2013 dismissed on 16.08.2013. Thus, the view of Coordinate Bench has secured imprimatur at the hands of Apex Court of the country. Even otherwise, justice of the case warrants no interference in State's Appeal of the kind.

In the above circumstances, both on the ground of delay and on merits, the Appeal is liable to be rejected and accordingly it is, costs having been very reluctantly made easy.

The Appellants shall give effect to the order of learned Single Judge within an outer limit of eight weeks, failing which whatever amount is payable in



terms of terminal benefits, would carry interest @ 1.5% per mensem, which component may be recovered from erring officials of the Department.

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

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge

Basu