



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 1871 OF 2025

State of Odisha and another ***Appellants***

Represented by Adv.-
Mr. S.B. Mohanty, AGA

-versus-

Sanatan Dhal and others ***Respondents***

Mr.Sukanta Kumar Mishra, Advocate

CORAM:

**JUSTICE KRISHNA SHRIPAD DIXIT
JUSTICE CHITTARANJAN DASH**

Order No.

ORDER

27.02.2026

01. The State and its officials have filed this Intra-Court appeal calling in question the learned Single Judge's order dated 18.07.2024 whereby the respondent-employee's W.P.(C) No. 33641 of 2023 having been favoured, relief has been conferred on him as under:

“15. Under aforesaid premises, there is no scope to sustain the Order dated 22.08.2023 passed by the opposite party No.1-Principal Secretary to Government in Commerce & Transport (Transport) Department. Accordingly this Court sets aside the said Order and directs the opposite party No.1 to treat the break in service period of 11 days as condoned, as conceded by the OSRTC. The opposite party No.1 is, therefore, directed to take further effective steps to disburse the pension and the pensionary benefit as are admissible, as expeditiously as possible preferably within a period of three months, bearing in mind that the petitioner is now at the age of about 74 years and in the meanwhile more than 23 years have been passed since he was allowed to retire under the Model Voluntary Retirement Scheme with effect from 11.03.2001. Needless to reiterate that the petitioner has already deposited the employee's share and the employer's share and his account with EPF authority has been duly closed.”

2. The appeal is moved after brooking a delay of 467 days and an application in I.A. No. 4592 of 2025 supported by affidavit has been filed accompanying the appeal.



3. Having heard learned counsel for the parties and having perused the appeal papers, we decline indulgence in the matter, mainly, because of the following reasons:

3.1 The Intra-Court appeal is moved by the State after brooking a long delay of 467 days. Although an application in I.A. No. 4592 of 2025 supported by affidavit is filed, the explanation offered in the application is not plausible and unaccepted. There cannot be different yardstick for the State and its officials when it comes to the limitation period, of course with all just exceptions. Therefore, the application is thoroughly unworthy of lenient consideration.

3.2 The respondent-employee had joined service on 04.05.1974 as a Cleaner. Thereafter, he left that service and came to be appointed again as Cleaner with a gap of 11 days. For qualifying service, what is required is a minimum of 20 years under the provisions of Odisha Civil Services (Pension) Rules, 1992 in terms of Rule 42. If the break in service is not condoned, the respondent would have been deprived of the terminal benefits. This aspect having been looked into by the learned Single Judge, he has rightly condoned the same inasmuch as the total length of service exceeds the qualifying service. Rule 42 of the Rules reads as under:

“42. Voluntary Retirement on completion of 20 years Qualifying Service-

(1) At any time after a Government servant has completed twenty years qualifying service, he may, by giving notice of not less than three months in writing to the appointing authority, retire from service.”

3.3 The respondent-employee retired on 11.03.2001, his VRS application having been accepted.

3.4. Learned Single Judge at paragraph 14.6 has observed as under:

“14.6. Thus being the principle propounded with respect to legislation of social security measures, reading provisions of the Odisha Civil Services (Pension) Rules, 1992 juxtaposed with Notification dated 05.04.2003 (Annexure-1) and Letter dated



06.02.2007 (Annexure-2) harmoniously, the appointing authority (OSRTC) having condoned the break in service for 11 days from 23.04.1974 to 03.05.1974 for the purpose of pension by taking into consideration the factual aspect that being reappointed in the position of "Cleaner" on 04.05.1974, i.e., prior to 15.05.1974, the date when the STS employees are transferred/deputed to OSRTC, and allowed to retire on 11.03.2001 under the Model Voluntary Retirement Scheme, the pension and other pensionary benefit deserve to be extended to the petitioner."

We are in full agreement with this.

In the above circumstances, the appeal being devoid of merits is liable to be dismissed and accordingly it is. The appellants to give effect to the order of the learned Single Judge and report compliance to the Registrar General of this Court within an outer limit of three (3) months, failing which the concerned officials are at the risk of contempt proceedings.

Registry shall send a copy of this order to the respondent by speed posts.

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

(Krishna Shripad. Dixit)
Judge

(Chittaranjan Dash)
Judge

PKSahoo