



**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**WP(C) No.9569 of 2024**

***Debar Tandi***

.....

***Petitioner***

Represented By Adv. -  
Prafulla Kumar  
Mohapatra

-versus-

***1) State Of Odisha***

.....

***Opposite Parties***

2) Engineer-in-chief (civil) , Odisha  
3) Superintending Engineer, Electircal  
(r And B) Circle  
4) Executive Engineer, General  
Electrical Division No.iii  
5) Asst. Engineer-cum-s.d.o., General  
Electrical Sub-division  
6) Accountant General (a And E) ,  
Odisha

Represented By Adv. –  
D.Mohapatra, ASC  
Mr.S.K.Patra, Standing  
Counsel for A.G., Odisha

**CORAM:**

**THE HON'BLE MR. JUSTICE ADITYA KUMAR  
MOHAPATRA**

**ORDER**

**30.04.2024**

**Order No.**

01.

1. This matter is taken up through Hybrid mode.
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel appearing for the State-Opposite Parties and Mr. S.K.Patra, learned Standing Counsel for A.G., Odisha. Perused the writ petition as well as documents annexed thereto.
3. The present writ petition has been filed by the Petitioner with the following prayers:-

*“It is therefore, humbly prayed that this Hon'ble Court may graciously be pleased to:-*

- i) Admit and allow this writ petition and;*
- ii) Quash the impugned order vide No.211 dated 12.03.2024 under Annexure-4and:*
- iii) Direct the opp. parties to grant pension and pensionary benefits under the Orissa Civil Services (Pension) Rules,*



*1992 by counting so much of past service rendered in work charged establishment taking in to account his initial appointment 19.08.1984 under the Govt. as has been granted to other similarly placed employees in the light of the principles decided in Narusu Pradhan vrs. State in O.A.No. 1189(c)/2006, which has been affirmed by in W.P.(c) No. 5377/2010 and SLP(c) cc No. 22498/2012, Sarbeswar Bhujabal, (O.A.No. 606/2015), which has been affirmed vide order dt. 15.11.2019 in W.P.(c) No. 7680/2019, and Hon'ble Supreme court in SLP(c) No.7541 of 2020, decided on 31.10.2022 and State of Odisha vrs. Pitambar Sahoo, W.P.(c) No. 24041/2017(decided on 20.12.2017), which has been affirmed in SLPO Diary No. 30806/2018 within a stipulated period of time and;*

*iv) Further direct to disburse the arrears of pension within a stipulated period of time.*

*v) Pass such other order (s)/direction(s) as would be deem fit & proper in the bonafide interest of justice;”*

4. Learned counsel for the Petitioner submitted that the present Petitioner was initially engaged as DLR on 19.08.1984. While working as such, the present Petitioner was brought over to the regular establishment to the post of Wireman vide Office Order No.1130 dated 27.02.2009 of the Superintending Engineer, Electrical Circle (R & B) Odisha, Bhubaneswar. Thereafter, the Petitioner has retired from service w.e.f. 31.05.2018 on attaining the age of superannuation. Now he Petitioner has approached this Court challenging the order dated 12.03.2024 under Annexure-4 whereby his claim for grant of pension has been rejected by the Opposite Parties.

5. Learned counsel for the Petitioner further contended that earlier the Petitioner had approached this Court by filing W.P.(C) No.40106 of 2023. This Court disposed of the said writ petition vide order dated 21.12.2023 by directing the Opposite Parties to consider the case of the Petitioner in the light of the law laid down by the Odisha Administrative Tribunal in ***Sarbeswar Bhujabal vs. State of Odisha & Ors.*** (O.A. No.606 of 2015 decided on 05.07.2018). He further contended that in the case of ***Sarbeswar Bhujabal***, who stands in a



similar footing with the Petitioner, after passing of the order by the Tribunal, he has been extended the pensionary benefits under Annexure-6 series of the writ petition. So far the present Petitioner is concerned, his representation was considered pursuant to the order dated 21.12.2023 passed by this Court in W.P.(C) No.40106 of 2023, however the same has been rejected vide order dated 12.03.2024 under Annexure-4 to the writ petition by the Opposite Party No.4 holding that the Petitioner was regularized after 01.01.2005. Therefore, he is not entitled to the pensionary benefits.

6. Learned Additional Standing Counsel, on the other hand, supported the impugned rejection order dated 12.03.2024 under Annexure-4 to the writ petition. He further contended that the authorities have not committed any illegality in rejecting the claim of the Petitioner. Further it was submitted that pursuant to the order dated 21.12.2023 in the earlier writ petition, the case of the Petitioner was considered by the Opposite Parties and by a detailed and speaking order, the claim of the Petitioner has been rejected by the authorities by holding that the Petitioner is not entitled to get similar benefits as has been granted to ***Sarbeswar Bhujabal and Chandra Nandi***. The impugned rejection order further reveals that since the Petitioner was a regular Wireman, his service was governed under the Orissa Pension (Amended) Rules, 2005 and not as per OCS (Pension) Rules, 1992. In such view of the matter, learned Additional Standing Counsel submitted that the Petitioner is covered by the aforesaid New Pension Rules. Therefore, his case cannot be considered under the OCS (Pension) Rules, 1992. Accordingly, it was prayed that the writ petition be dismissed as the same is devoid of merit.

7. Having heard the learned counsels appearing for the respective parties and on a careful examination of the background facts of the present case, as well as the materials on record, this Court observes that



the only question that is required to be adjudicated in the present writ petition is with regard to entitlement of the Petitioner to get pensionary benefits after retirement from service. In the event this Court comes to a conclusion that the Petitioner is entitled to the pensionary benefit, the Petitioner will be eligible to get the pension. The aforesaid issue, as it appears, is no more res integra. The same has been adjudicated by this Court repeatedly on a number of occasions. Apart from the judgment in ***Sarbeswar Bhujabal's*** case (supra), similar issue was decided in ***Khageswar Jena v. State of Odisha and Ors.*** (W.P.(C) No.29993 of 2022 disposed of on 18.11.2022) and such order passed by this Court has already been confirmed by the Division Bench of this Court in writ appeal bearing W.A. No.301 of 2023 vide order dated 06.11.2023. Similar view has also been taken in many similar matters like in ***Sri Narsingh Choudhury v. State of Odisha and others*** (W.P.(C) No.31366 of 2023, in ***Pradip Kumar Sahu v. State of Odisha and others*** (W.P.(C) No.28909 of 2023). All the aforesaid employees retired from service after 01.01.2005 and they have been granted pension under Old Rules. The Petitioner is squarely covered in Finance Department Resolution No.17114 (255)/F. dated 04.04.2007. Therefore, the remedy of the Petitioner is to work out in the light of the said circular.

8. In view of the aforesaid legal position, this Court has no hesitation in setting aside the impugned order vide No.211 dated 12.03.2024 under Annexure-4 to the writ petition. Accordingly, the same is hereby set aside. Further the matter is remanded back to the Opposite Party No.1 to examine the case in terms of the Finance Department Resolution No.17114(255)/F. dated 04.04.2017 as well as the decision in Pitambar Mohapatra, W.P.(C) No.13483/2012 & Sarbeswar Bhujabal, O.A.No.606/2015 for grant of pensionary benefits by taking into consideration so much of the service period of the Petitioner so as to calculate the minimum qualifying service period for



grant of pensionary benefits from DLR and regular period of the Petitioner. Accordingly, minimum pensionary benefits be calculated as is due and admissible to the present Petitioner on the basis of the last pay drawn by him. Further, it is directed that in the event similarly situated employees, one of whom being *Sarbeswar Bhujabal* has been given such pensionary benefits, then the case of the Petitioner also be considered and the Petitioner shall be paid the minimum pension as is due and admissible to him within a period of two months from the date of communication of a certified copy of this order by the Petitioner.

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

**( A.K. Mohapatra )**  
**Judge**

Anil

Signature Not Verified

Digitally Signed  
Signed by: ANIL KUMAR SAHOO  
Reason: Authentication  
Location: High Court of Orissa  
Date: 01-May-2024 10:22:03

