



IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.11449 of 2025

Mihir Kumar Swain

.....

Petitioner

Represented By Adv. –
Mr. Chitta Ranjan Pattnaik

-versus-

State of Odisha and others

.....

Opposite Parties

Represented By Adv. –
Smt. Sasmita Nayak, ASC

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

ORDER
30.04.2025

Order No.

- 01.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel for the State-Opposite Parties. Perused the writ petition as well as the documents annexed thereto.
 3. The present writ petition has been filed by the Petitioner with the following prayers:-

“Under such circumstances, it is prayed that your lordship would graciously pleased to admit this writ application call for records & after hearing the parties may be pleased to issue a writ/s, order/s, direction/s In the nature of mandamus directing the Opp. Parties to sanction final pension, leave salary, and other retirement dues including promotional benefits to the post of Asst. Controller of Legal



Metrology due to him from the year 2012 till his retirement dt.30/11/2018 with interest within a stipulated period as this Hon'ble court deems fit and proper.

And further may pass any other direction/s, order/s, writ/s, as this Hon'ble court deems fit & proper to extent relief to the petitioner.”

4. Learned counsel for the Petitioner, at the outset, contended that the Petitioner was initially appointed as an Inspector of Legal Metrology under the Assistant Controller, Weight and Measure, Cuttack Zone, Cuttack on 16.03.1984. Accordingly, the Petitioner joined in service on 12.04.1984. While working as such, the Petitioner was entangled in a vigilance case, which was registered as Cuttack Vigilance P.S. Case No.34 dated 10.06.2003, corresponding to V.G.R. Case No.34 of 2003, pending in the court of learned Additional Sessions Judge-cum-Special Judge (Vigilance), Dhenkanal, for commission of offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. Similarly, a disciplinary proceeding was also initiated against the present Petitioner as the Petitioner was arrested and remained in custody. He further contended that the Petitioner was also entangled in a criminal case, i.e. G.R. Case No.182 of 2007, corresponding to C.T. No.290 of 2007, before the S.D.J.M., Udala, Mayurbhanj.

5. Learned counsel for the Petitioner, at this juncture, further contended that in V.G.R. Case No.34 of 2003, the Petitioner faced trial and by virtue of the judgment dated 11.09.2018 of the learned Additional Sessions Judge-cum-Special Judge (Vigilance),



Dhenkanal, the Petitioner has been acquitted from all charges by giving the accused-Petitioner the benefit of doubt. Learned counsel for the Petitioner further submitted that the Petitioner has also faced trial in C.T. No.290 of 2007 and by virtue of judgment dated 17.05.2024 of the learned S.D.J.M., Udala, Mayurbhanj, the Petitioner has been acquitted from all charges levelled against him in the said criminal case. He further contended that, so far as the disciplinary proceeding that is initiated against the Petitioner is concerned, an Inquiry Report was submitted by the Inquiry Officer under Annexure-8 to the writ petition. By referring to the Inquiry Report under Annexure-8, learned counsel for the Petitioner contended that in the conclusion, the Inquiry Officer has mentioned that he found that the charges framed against the Petitioner are not proved in the court of law. Moreover, the M.O. could not substantiate the charges against the Delinquent Officer with documentary evidence. Therefore, the Petitioner has been discharged from all charges.

6. In the aforesaid factual background, learned counsel for the Petitioner further contended that the Petitioner on attaining the age of superannuation has retired from Government service w.e.f. 30.11.2018. He further contended that although the Petitioner has retired since 2018, he has not received his retiral dues as well as pensionary benefits as is due and admissible to the Petitioner. Learned counsel for the Petitioner further submitted that although the Petitioner has approached the Opposite Parties on several occasions by filing a representation, however no final decision has been taken



on such representation and that the Petitioner has not yet received the financial benefits as is due and admissible to him upon his retirement and thereafter. Being aggrieved by such inaction of the Opposite Parties, the Petitioner has approached this Court by filing the present writ petition.

7. Learned counsel for the State, on the other hand, contended that at the time of retirement, the Petitioner was facing trial and a departmental proceeding was initiated against him. Therefore, learned counsel for the State contended that the Opposite Parties have not committed any illegality in not processing the claim of the Petitioner with regard to the retiral dues as well as his pensionary benefits. In such view of the matter, the learned counsel for the State further submitted that the Opposite Parties have not committed any illegality, rather they have acted as per the provisions contained in the relevant service rules. He further submitted that in the event the aforesaid proceeding has come an end, the Petitioner may approach the competent authority for reconsideration of his case in view of the later development and he will have no objection to the same.

8. Having heard the learned counsels appearing for the respective parties, on a careful analysis of the factual background of the present case and further on scrutiny of the documents annexed to the writ petition, this Court observes that the only grievance of the Petitioner in the present writ petition is with regard to non-payment of his retiral dues as well as pensionary benefits. On a careful analysis of the documents as well as the pleadings in the writ petition, this Court observes that at the time of retirement of the Petitioner from service



on 30.11.2018, two criminal cases as well as a disciplinary proceeding was pending against the Petitioner. Therefore, this Court is of the view that the Opposite Parties have not committed any illegality in withdrawing the financial benefits of the Petitioner at the time of retirement from service and subsequent withholding of pensionary benefits of the Petitioner. On further scrutiny, it appears that the Petitioner has been acquitted in the above noted two criminal cases as has been stated in the writ petition. Moreover, the Inquiry Report in the disciplinary proceeding under Annexure-8 reveals that Inquiry Officer has also recommended the Disciplinary Authority to exonerate the Petitioner from all charges as the same could not be proved. On further scrutiny of record, it appears that a notice has been issued to the Petitioner on 28.03.2025 under Annexure-9 to the writ petition to submit his views on the inquiry report submitted by the Inquiry Officer under Annexure-8 to the writ petition.

9. In the aforesaid factual background, further taking note of the contentions raised by the learned counsels appearing for both the sides, as well as keeping in view the legal position, this Court deems it proper to dispose of the writ petition at the stage of admission by directing the Opposite Party No.5 to take a final decision on the Inquiry Report under Annexure-8 to the writ petition as expeditiously as possible, preferably within a period of four weeks. In the event the Inquiry Report is accepted and the Disciplinary Proceeding is dropped, the Opposite Parties are further directed to do the needful to consider the case of the Petitioner after verification of the fact that the two criminal cases against the Petitioner have ended



in acquittal as well as the disciplinary proceeding initiated against the Petitioner culminates in the exoneration of the Petitioner from all charges. In the event it is found by the Opposite Parties that no proceeding is pending against the present Petitioner, either judicial or departmental, then necessary steps be taken in accordance with law to process the claim of the Petitioner with regard to the retiral dues as well as pensionary benefits as is due and admissible to him, as expeditiously as possible within a period of two months from the date of communication of a certified copy of this order.

10. With the aforesaid observation and direction, the writ petition stands disposed of.

(A.K. Mohapatra)
Judge

Debasis