

## Satyananda Nayak Vs Union Of India & Others

**Court:** Central Administrative Tribunal Cuttack Bench, Cuttack

**Date of Decision:** Jan. 8, 2025

**Hon'ble Judges:** Sudhi Ranjan Mishra, Member (J); Pramod Kumar Das, Member (A)

**Bench:** Division Bench

**Advocate:** P.K. Nayak, D.P. Mohapatra

**Final Decision:** Allowed

### Judgement

Pramod Kumar Das, Member (A)

1. The prayer of the applicant in this OA is to direct the respondents to refix his basic pay enhancing the grade pay from Rs. 4200/- to next higher

amount and to release the Gratuity accordingly within a stipulated time.

2. In the counter filed by the respondents, it has been stated that while the applicant was in service, he was issued with the charge sheet dated

01.08.2012, which he challenged before this Tribunal in OA No. 682/2012. On attaining the age of superannuation, he retired from govt. service on

31.08.2014. Thereafter, he filed OA No. 786/2016 challenging non-payment of Commutation of Pension and Gratuity, which was dismissed on

10.03.2022. This Tribunal vide order dated 17.10.2023, in OA No. 682/2012, quashed the charge sheet dated 01.08.2012, which order was challenged

before the Hon'ble High Court of Orissa in W.P.(C) No. 6181/2024. Due to pendency of disciplinary proceeding, the applicant was disbursed the

retirement benefits except the Gratuity, which is just and proper. Similarly, it is stated that the prayer of the applicant for upgradation of Grade Pay is

without any basis and, therefore, the same is not tenable.

3. Heard the parties and perused the records.

4. Ld. Counsel for the applicant to substantiate his argument that withholding of Gratuity even during the disciplinary proceedings is impermissible, has

placed reliance on the decision of the Hon'ble Apex Court in the case of State of Jharkhand & Ors Vs. Jitendra Kumar Srivastava & An.r,

(2013) 12 SCC 210, D.D.Tewari Vs Uttar Haryana Bijli Vitran Nigam Ltd. & Ors ,2015(I) OLR (SC)-81, and the order of the Hon'ble High

Court of Orissa in the case of Rabindranath Choubey Vs Chairman-cum-managing Director, Mahanadi Coalfields Ltd. Sambalpur & An,r

2013(II) OLR 400, and in the case of Bishnu Charan Mohanty Vs UCI Bank & Or,s 2017 (Supp.II) OLR-1019, and therefore, the non-payment

of the Gratuity is bad in law. It is submitted that the Writ Petition No. 6181/2024 filed by the respondents has been dismissed by the Hon'ble High

Court of Orissa vide order dated 18.02.2024.

5. On the other hand, Ld. Counsel for the respondents has submitted that none of the decisions relied on by the applicant have any application to the

present case because in those decisions there was no such provision for withholding the retiral dues due to pendency of the disciplinary proceedings,

whereas in the instant case, there is specific provision for withholding of Gratuity, if proceedings is pending against an employee. Therefore, there is

no illegality in withholding the Gratuity of the applicant for the pendency of disciplinary proceedings against him. However, in course of hearing, Ld.

Counsel for the respondents have brought to our notice the letter dated 03.12.2024 wherein the respondents department has intimated him to pray for

six months time to release the benefits of 1st and 2nd financial upgradation under MACP to the applicant but nothing has been stated insofar as

payment of Gratuity is concerned. The copy of the communications made to the above effect has been filed by the respondents and the same is taken

to record. Accordingly, Ld. Counsel for the respondents prayed for six months time.

6. After going through the decisions relied on by the applicant, we do agree with the submission of the Ld. Counsel for the respondents that none of

the decisions have any application to the present case because in those cases there was no express ruling, as in the instant case, for withholding of

Gratuity on account of pendency of disciplinary proceedings. However, it may be noted that an employee is entitled to the Gratuity and other

retirement benefits soon after the retirement but, in the present case, the same was withheld due to pendency of the disciplinary proceedings,

however, the proceedings was quashed by this Tribunal and the matter has been set at rest. Be that as it may, in letter dated 03.12.2024, respondents

department intimated to seek six months time and, meanwhile, one month already expired, we hope that some development must have taken place,

however, taking into consideration the time already consumed in the matter, respondents are directed to complete the entire drill to release benefits

such as financial upgradations under MACP and Gratuity as quickly as possible preferably within a period of 60 days from the date of receipt of a

copy of this order. We refrain from passing any order relating to payment of interest in absence of any such prayer. However, it is made clear that in

case of failure to pay the entitled dues within the stipulated period stated above, he shall be entitled to 8% interest per annum with effect from

18.02.2024, i.e. the date of dismissal of the Writ Petition No. 6181/2024, and respondents shall be free to recover the amount payable to the applicant

towards interest from officers/officials responsible for such delay.

7. In the result, the OA stands allowed leaving the parties to bear their own costs.