

ITEM NO.26+74+75

COURT NO.6

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 2146/2024

(Arising out of impugned final judgment and order dated 20-11-2023 in
WA No. 1134/2023 passed by the High Court Of Orissa At Cuttack)

STATE OF ODISHA & ORS.

Petitioner(s)

VERSUS

SUDHANSU SEKHAR JENA

Respondent(s)

(IA No.19566/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
and IA No.19568/2024-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

WITH

SLP(C) No. 2120/2024 (XI-A)

(IA No.19044/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
and IA No.19045/2024-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

With

Item No.74

SLP (C) No(s). 2196/2024

([TO BE TAKEN UP ALONG WITH ITEM NO. 26 I.E. SLP(C) No.
2146/2024].....

FOR ADMISSION and I.R.

IA No.20396/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT IA
No.20398/2024-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 2226/2024 (XI-A)

(FOR ADMISSION and I.R.

IA No.20770/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No.20771/2024-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 2334/2024 (XI-A)

(IA No.21524/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No.21525/2024-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Item No.75

SLP(C) No. 2335/2024

TO BE TAKEN UP ALONG WITH ITEM NO. 26 I.E. SLP(C) No. 2146/2024].....

IA No.21531/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and
IA No.21533/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURE

Date : 29-01-2024 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Petitioner(s) Mr. P. S. Patwalia, Sr. Adv.
Mr. Ankit Agarwal, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Heard Mr. P. S. Patwalia, learned senior counsel appearing for the petitioner.

2. The counsel would refer to the judgment dated 24.3.1992 in the OJC No.2147/1991 (Annx. P-2) to submit that the High Court desired that in order to enable those who were on job contract, to get the benefit of pension, the shortfall in service for making them eligible for pension, can be compensated by taking into account only so much of their earlier job contract service. The senior counsel would then point out that the OCS (Pension) Rules, 1992 was enacted to give effect the said judgment whereafter the Government notification was issued on 12.12.1997. Appropriate amendment to the OCS (Pension) Rules, 1992 was also made, inserting the following sub-rule (6) to the Pension Rules:-

"(6) Notwithstanding anything contained in clause (i) & (ii) of sub-rule (2), a person who is initially appointed in a job contract establishment and is subsequently brought over to the post created under regular/ pensionable establishment, so much of his job contract service period shall be added to the period of his qualifying service in regular establishment as would render him eligible for pensionary benefits."

3. Pension was then made available to the respondent who retired from service on 31.1.2019 as Head Area Estimator in the Revenue Branch. But even after pension was given, the retired employee filed the W.P.C. No.32511/2022 where the plea was to grant him enhanced pension by taking his entire job contract service tenure, into consideration.

4. The State's counsel argues that this is going to have a huge financial implication considering like claims from the large number of retired employees. The Government has already extended pension benefits for this category of job contract employees, they can't possibly have the second benefit of higher pension. According to Mr. Patwalia, the judgment (dated 24.3.1992) was never intended for counting the entire job contract service tenure.

5. Moreover, the relief for the respondent was erroneously granted on 06.12.2022 by the learned Single Judge without giving any opportunity to the State to file their response and eventually the Division Bench dismissed the writ appeal only on the ground of 139 days delay. The delay period in the connected cases vary but the maximum delay is of 324 days in filing the State's writ appeal to challenge the judgment of the Writ Court.

6. Issue notice, returnable in six weeks.

7. The concerned respondents may continue to receive the pension as fixed earlier. The direction given by the learned Single Judge shall remain stayed in the meantime.

(RASHMI DHYANI PANT)
COURT MASTER (SH)

(KAMLESH RAWAT)
ASSISTANT REGISTRAR