

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 6019 of 2011

Subash Chandra Nayak

.....

Petitioner

Mr. S. Mohapatra, Adv.

Vs.

Union of India and others

.....

Opposite Parties

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

22.03.2022

Order No.

4.

This matter is taken up through hybrid mode.

2. The petitioner has filed this writ petition challenging the order dated 08.02.2008 passed in O.A. No. 1134 of 2004 under Annexure-9, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack has dismissed the original application by holding that the petitioner could not make out a case for quashing of the impugned orders at Annexures-6(1) and 7, however, his pay had been rightly protected vide Annexure-7 and, as such, neither there could be stated to be any excess payment made to him nor could his pay at any point of time be fixed lower than the pay drawn by him. The difference in pay shall, as per the rules, be adjusted in the future increments.

3. As is pleaded in the writ petition, the petitioner was appointed as an Insect Collector in the Regional Office of Health and Family Welfare Department, vide office order dated 17.08.1981, pursuant to which he joined in duty on 01.09.1981. He was promoted as Junior Technician in the scale of pay of Rs.975-1540, vide office order dated 26.03.1989, in pursuance of which he joined as such on 12.04.1990. The 5th Central Pay Commission, vide para-69.83 and 69.84 of the report, made certain recommendations relating to the revision of pay scale of Junior Technicians and Lab. Assistants. Accordingly, while reorganizing the structure in the National Malaria Eradication

Programme, the post of Junior Technician was bifurcated and renamed as Lab. Assistant-II in the pay scale of Rs.1320-2040/- and Lab. Assistant-I in the scale of pay of Rs.1400-2300/-. The former was by way of direct recruitment while the latter by promotion. The opposite parties, vide order dated 30.12.1998, divided the total nos. of 74 posts of Junior Technicians into two grades-(a) those who were promoted from Insect Collector and (b) Direct Appointees, and afforded the higher pay scale of Rs.4500-7000/- to the former and Rs.4000-6000/- to the latter, which was however made subject to final decision by the appropriate authority. The petitioner, being a promotee to the grade of Junior Technician (new Lab. Assistant, Gr-I), had been afforded the replacement pay scale of Rs.4500-7000/-.

4. A similar matter had come up for consideration before the Central Administrative Tribunal, Lucknow Bench in O.A. No. 403 of 2002 filed by the some of the direct recruits to the post of Junior Technicians for grant of pay scale of Rs.4500-7000/-, instead of Rs.4000-6000/-, and the said original application was disposed of with a direction to the Secretary, Ministry of Health and Family Welfare Department to consider the grievance of the applicants therein, in the wake of which the Ministry of Finance, Department of Expenditure was consulted in that regard. The Ministry had observed that the case was solely on account of wrong implementation of a specific recommendation of the 5th Central Pay Commission by the Administrative Ministry and, therefore, the Department decided that the pay of those who had been granted higher pay scale of Rs.4500-7000/- should be reviewed and only 34 Junior Technicians being 50% of the total Junior Technicians, should be renamed as Lab. Assistant, Gr.I and the rest to be termed as Lab. Assistant, Gr.II and the pay scale of Rs.4500-7000/- be afforded to the former and Rs.4000-6000/- to the latter, with the rider that pay (not the pay scale) of those whose pay scales have to be lowered, may be protected and the order dated

16.03.2004 refers in this regard. The petitioner coming under the second category, by virtue of seniority in the post of Junior Technician, had been subjected to the reduction in the pay scale and, as such, his pay fixation was made vide order dated 29.06.2004. The above two orders were challenged before the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 1134 of 2004, but the tribunal did not feel inclined to interfere with the said orders, as they had come from different source.

5. In the above view of the matter, this Court is not inclined to take a different view than the view taken by the tribunal, that because of change of nomenclature and source of recruitment being different, the scale of pay has been fixed. Accordingly, this Court does not find any error apparent on the face of record in the order impugned passed by the tribunal so as to interfere with the same.

6. In the result, the writ petition merits no consideration and the same is accordingly dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Puspa