

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 9578 of 2010

Murali Pradhan

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Petitioner

Ms. D. Mohapatra, Advocate

Vs.

State of Orissa & Ors.

.....

Opposite parties

Mr. State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

17.03.2022

Order No.

04

This matter is taken up through hybrid mode.

2. Heard Mrs. S. Jena on behalf of Ms. D. Mohapatra, learned counsel for the petitioner and Mr. S.N. Nayak, learned Additional Standing Counsel for the State.

3. The petitioner has filed this writ petition assailing the order dated 21.02.2009 passed by the Orissa Administrative Tribunal, Bhubaneswar in O.A. No.64(S) of 2001, by which his claim for pay protection to Jeep Driver has been denied under Rule-74(d) of the Orissa Service Code.

4. Mrs. S. Jena, learned counsel for the petitioner contended that the petitioner, while working as Grade-1 Helper Right Bank Sub-Division, Burla, was allowed to officiate to work as Jeep Driver in the scale of pay of Rs.3050/- to Rs.4590/- with usual D.A. and other allowances for a period of six months, which was being

extended from time to time. Subsequently, he was reverted back to his post of Grade-1 Helper. But, his pay was not protected under Rule-74(d) of the Orissa Service Code, whereas the pay of some Junior Clerks, on their reversion to the said post, was protected under Rule-74(d). Therefore, he approached the Orissa Administrative Tribunal, Bhubaneswar by filing O.A. No.64(S) of 2001. After due adjudication, the tribunal has also confirmed the order of reversion without extending the financial benefit admissible to the petitioner.

5. Mr. S.N. Nayak, learned Additional Standing Counsel for the State contended that the petitioner was never appointed as Jeep Driver and he was granted officiating pay in the post in which he was officiating. More so, he was never reverted from the post of Driver and on his reversion to the post of Grade-1, Helper, he was allowed to draw the scale of pay admissible to the post. More so, Rule-74(d) of the Orissa Service Code is not applicable to the petitioner. Therefore, the claim of the petitioner cannot sustain in the eye of law.

6. Having heard learned counsel for the parties and after going through the records, it appears that nothing has been placed on record to indicate that the petitioner was appointed in the post of Jeep Driver. He was simply officiating in that post and was drawing the pay of the Driver while he was officiating in the post. Though it is

contended that some of Junior Clerks, who were officiating in the post of Senior Clerks, were reverted back to their original post of Junior Clerks and they were allowed to continue in their substantive post and the financial benefits received by them have been regularized in accordance with Rule-74(d) of the Orissa Service Code, but no evidence is adduced to substantiate that they are getting financial benefits as per the said rule. Otherwise also, Rule 74(d) is not applicable to the petitioner.

7. In view of such position, this Court does not find any error in the order dated 21.02.2009 passed by the Orissa Administrative Tribunal, Bhubaneswar in O.A. No.64(S) of 2001 rejecting the claim of the petitioner. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

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(DR. B.R. SARANGI)
JUDGE

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(SAVITRI RATHO)
JUDGE