

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 15830 of 2011

State of Orissa & Others

.....

Petitioners

Mr. A.K. Mishra, A.G.A.

Vs.

Balakrishna Biswal

.....

Opposite party

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

09.03.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Mishra, learned Addl. Govt. Advocate for the State.

3. The report of the Manager, CCC, Cuttack GPO indicates that notice as against the opp. party has been made sufficient. Though notice has been made sufficient, none appears for the opp. party at the time of call.

4. Perused the records.

5. The State-petitioners have filed this application challenging the order dated 29.11.2010 under Annexure-4 passed by the Orissa Administrative Tribunal, Bhubaneswar in O.A. No.2549 of 1996, whereby the petitioners have been directed to grant TBA scale to the opp. party.

6. The factual matrix of the case, in hand, is that

initially the opp. party was appointed as a senior assistant on 15.07.1975 in the scale of pay Rs.320-750/- and subsequently, it was revised to Rs.990-1830/-. Thereafter, he was deputed to work as Oriya Translator. As such, he claimed that Oriya Translator and Senior Assistant are borne in the same grade. So, he having worked for about 15 years in the same grade is entitled to get TBA scale of pay. As a consequence thereof, he claimed that he should be granted TBA scale with effect from 15.07.1990, which has been granted to other similarly situated employees under Annexure-8 to the original application.

7. Mr. A.K. Mishra, learned Addl. Govt. Advocate for the State vehemently contended that admittedly the opp. party was holding the post of Senior Assistant and thereafter, continued as Oriya Translator. Since he has not completed 15 years of service as Oriya Translator, he is not entitled to get the benefit of TBA Scale of pay. He further contended that the scheme of TBA was abolished with effect from 03.10.1989. Therefore, by the time he completed 15 years of service, the said scheme was not available. Thereby, he is not entitled to get the said benefit.

8. Having heard learned Addl. Govt. Advocate for the State-petitioners and after going through the records, it appears that the opp. party was initially appointed as Senior Assistant on 15.07.1975 in the scale of pay of

Rs.320-750/- and subsequently it was revised to Rs.990-1830. Thereafter, he was deputed to work as Oriya Translator and by the process, he completed 15 years of service with effect from 15.07.1990. Thereby, claiming the benefit of TBA scale of pay, the opp. party approached the Orissa Administrative Tribunal by filing O.A. No.2549 of 1996. The Tribunal considered the said aspect and objection raised by the State that the opp. party was not worked in the same post for 15 years and the scheme of TBA was abolished on 03.10.1989.

9. There is no dispute with regard to the fact that the opp. party had rendered service as Senior Assistant as well as on deputation he worked as Oriya Translator in the grade of Rs.320-750/- and as such, the said pay attached to the Oriya Translator does not change the grade in which the opp. party was receiving salary. Though nomenclature of the post has been changed from Senior Assistant to Oriya Translator, that itself does not disentitle the opp. party to get the TBA scale of pay rather the principle is that the opp. party has to work 15 years of service either in a post or in the grade. Since it is the admitted fact that the opp. party has rendered service in grade Rs.320-750/- for more than 15 years, he is entitled to get TBA scale of pay. So far as the claim made that the scheme has been abolished with effect from 03.10.1989 but subsequently the said post has been revived. Since similarly situated employees, which have

been mentioned in Annexure-8 to the original application, having been extended the benefit of TBA scale of pay, the opp. party should not have been denied such benefit, which amounts to violation of Article 14 of the Constitution of India.

10. Therefore, the Tribunal has not committed any error in passing the order impugned dated 29.11.2010 in O.A. No. 2549 of 1996 so as to cause interference of this Court. Accordingly, the writ petition merits no consideration and the same is dismissed.

Issue urgent certified copy as per rules.

Alok /Sukanta

