

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20916 of 2012

Badrikanath Mohanty

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Petitioner

Mr. D.K. Panda, Adv.

Vs.

State of Orissa and Ors.

.....

Opposite parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

12.04.2022

Order No.

05

This matter is taken up through hybrid mode.

2. Heard Mr. J. Sengupta, learned counsel for the petitioner and Mr.A.K. Mishra, learned Additional Government Advocate for the State-opposite parties.
3. The petitioner has filed this writ petition assailing the order dated 22.03.2012 passed by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 2699(C) of 2002, by which the increment claimed by the petitioner has been denied.
4. Mr. D.K. Panda, learned counsel for the petitioner contended that the period for which the petitioner remains in full charge of Valuation Officer, Valuation Organisation, Orissa, Bhubaneswar under H&U.D. Deptt. in the rank of OAS-(I)JB, in addition to his own duties, i.e., from 01.09.1997 to 21.04.1998 in the time scale of pay, he should be granted increment w.e.f. 01.09.1997. The same having been denied, the petitioner has approached this Court by filing this writ petition.

5. Mr. A.K. Mishra, learned Additional Government Advocate for the State-opposite parties contended that the order in Annexure-4 dated 02.02.2001 clearly indicates that the petitioner had remained in full charge of Valuation Officer, Valuation Organisation, Orissa, Bhubaneswar under H&U.D. Deptt. in the rank of OAS-(I)JB, in addition to his own duties, for the period from dated 01.09.1997 to 21.04.1998. Thereby, there is stop gap arrangement was made by the Government, and for that period, the petitioner cannot claim the benefit of increments for officiating in the higher post as per Rule-79(c) of the Orissa Service Code, as he was not regularly promoted to such post.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner was promoted to the post of OAS Class-1(Junior Branch) on 03.11.1997 and was simultaneously allowed to perform his duties as Consolidation Officer and also to act as Assistant Director-cum-Under Secretary, Board of Revenue from 01.02.1995 to 04.04.1995, from 01.07.1995 to 05.10.1995 and from 10.02.1994 to 11.12.1994 for a total period of one year 3 months and 10 days. The said officiating period was regularized and he was allowed officiating pay as per the documents available on record vide Annexures-1 & 2 to the original application. Thereafter, while he was posted as Assistant Valuation Officer, he was also acting as the Valuation Officer from 01.09.1997 to 21.04.1998 i.e. for a period of four months and 29 days and was then promoted to the OAS Class-1 (J.B.) on regular basis vide Revenue Deptt. Notification dated 03.11.1997 and posted as Under Secretary to

R.D.C. (CD), where he joined on 22.04.1998. His officiating period as Valuation Officer was regularized w.e.f. 01.09.1997 and he was allowed to draw pay of Valuation Officer with effect from the said dates, i.e., 02.02.2001 and 11.04.2001. Thereby, the petitioner now claims that he is eligible to get increments from the date he officiated in the OAS Class-1 (J.B.) without break till his regular promotion as per Rule 79(C) of the Orissa Service Code. Accordingly he submitted his representation for such benefits, but the same was rejected by letter dated 18.10.2001. Then, the petitioner again represented for such benefits on 04.05.2002, but the same was rejected vide letter dated 01.06.2002. Therefore, the petitioner approached the tribunal by filing original application for grant of such increments from 22.05.1997 in the time scale of OAS Class-1 (J.B.) and for allowing consecutive increments from 01.04.1998 to 01.04.1999 as per Rule 79(a) and 79(c) of the Orissa Service Code read with Rule-54 of the Orissa Service Code and Finance Deptt. circular dated 19.06.1974. But fact remains, the same benefit is not admissible to the petitioner because he was remained in charge of Valuation Officer, Valuation Organisation, Orissa, Bhubaneswar under H&U.D. Deptt. in the rank of OAS-(I)JB, in addition to his own duties. More so, the same were stop gap arrangements only, for which the petitioner was allowed the benefits of higher officiating pay for the said period with a clear direction that he shall not claim any increments in the regular scale. The petitioner was not promoted and, as such, merely allowed to remain in charge as a purely temporary arrangement, without concurrence of the Revenue Department i.e. cadre controlling authority, for which the petitioner has been adequately

compensated as per Rule-96 of the Orissa Service Code. Therefore, the claims for grant of increment benefits are not admissible to him.

7. In such view of the matter, this Court does not find any error apparent on the face of record so as to warrant interference with the order passed by the tribunal.

8. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE