

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 21197 of 2014

Rajendra Kumar Jena

.....

Petitioner

Mr. N.R. Routray, Adv.

Vs.

Union of India and others

.....

Opposite Parties

Mr. D. Gochhayat, CGC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

26.10.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. N.R. Routray, learned counsel for the petitioner and Mr. D. Gochhayat, learned Central Government Counsel appearing for the opposite parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 15.10.2014 passed in O.A. No.229 of 2011 under Annexure-1, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack has dismissed the original application filed by the petitioner by holding that the petitioner is not entitled to 30% pay element in lieu of running allowance in the grade of Traffic Apprentices/Section Controller.

4. Mr. N.R. Routray, learned counsel for the petitioner at the outset contended that the petitioner was initially appointed as a Goods Guard. While working as such, he was selected for the post of Traffic Apprentice in the year 2005 through a General Departmental Competitive Examination Scheme and on completion of training, he was posted against the working post with effect from 16.09.2007 and accordingly his pay was fixed in the scale of pay of Rs.5500-9000/-. But the Railway Board issued

RBE No.132 of 2006 for pay fixation of running staff on their appointment to posts under the General Departmental Competitive Examination Scheme. Thereafter, though the petitioner submitted his representation for fixation of his pay with benefit of 30% pay elements, the same was rejected. Therefore, the petitioner approached the tribunal by filing O.A. No. 229 of 2011 and in turn though the tribunal heard the matter on 17.03.2014, but delivered the judgment on 15.10.2014. Thus, it is contended that there is inordinate delay in disposal of the matter. To substantiate his contention, he has relied upon the judgment of this Court in the case of **Nityananda Barik v. Union of India** (W.P.(C) No. 16659 of 2014 disposed of on 05.05.2022), by which this Court taking note of the provisions contained in Sub-rule (a) of Rule-105 of Chapter-XVII of the Central Administrative Tribunal Rules of Practice, 1993 came to a conclusion that the order impugned having been passed after long lapse of keeping the order reserved, the same cannot be sustained in the eye of law.

5. Mr. D. Gochhayat, learned Central Government Counsel appearing for the opposite parties relying upon the counter affidavit stated that the tribunal is well justified in passing the order impugned, which does not warrant any interference of this Court at this stage. It is further contended that the scale of pay of the petitioner has been fixed on his appointment to working post Dy. S.S. considering notional pay at Rs.5500/- w.e.f. 01.08.2005 under RS (RP) Rules, 1997, getting pay fixation notionally w.e.f. 01.01.2006 as per RS (RP) Rules, 2008 and allowing onwards notional increments as per extant rules applicable for direct recruits. Therefore, it is contended that this Court should not

interfere with the order passed by the tribunal.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner claims for fixation of his scale of pay and, as such, it is contended that the reliance placed on RBE No.132/2006 issued by the East Coast Railway Establishment has no application to the present case and, therefore, the contention raised by learned counsel for the opposite parties cannot sustain in the eye of law. But at the same time it is seen that though the tribunal heard the matter on 17.03.2014, but delivered the judgment on 15.10.2014 after long lapse of time. Therefore, in view of Sub-rule (a) of Rule-105 of Chapter-XVII of the Central Administrative Tribunal Rules of Practice, 1993, the order so passed by the tribunal cannot sustain in the eye of law, in view of the ratio decided by this Court in *Nityananda Barik* (supra). Thereby, the order dated 15.10.2014 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.229 of 2011 under Annexure-1 is liable to be quashed and the same is hereby quashed. The matter is remitted back to the tribunal for fresh adjudication by giving opportunity of hearing to all the parties.

7. The writ petition is accordingly disposed of.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok/Debasis

(B.P. SATAPATHY)
JUDGE