

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 3013 of 2022

State of Odisha & Anr.

.....

Petitioners

Mr. B.P. Tripathy, AGA

Vs.

Kirtan Bihari Nayak & Ors.

.....

Opposite parties

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

11.04.2022

Order No.

02

This matter is taken up through hybrid mode.

2. Heard Mr. B.P. Tripathy, learned Additional Government Advocate for the State-petitioners.

3. The petitioners have filed this writ petition seeking to quash the order dated 26.02.2019 passed by the Odisha Administrative Tribunal, Principal Bench, Bhubaneswar in O.A. No. 801 of 2019, directing the petitioners-State, who were respondents before the tribunal, to enhance the grade pay of opposite party no.1 to Rs.6,600/-, in stead of Rs.5400/-, keeping in view Annexures-3, 4 & 5 of the original application, and further directed to fix his pay and to pay accrued arrear in his favour within three months from the date of receipt of a copy of the order by modifying the previous sanction order.

4. Though the aforesaid order was passed on 26.02.2019, the present writ petition was filed only on 28.01.2022, i.e., after three years. Thereby, the writ petition suffers from delay and laches, in view of the judgment of this Court in the case of *State of Odisha v. Surama Manjari Das* (W.P.(C) No. 15763 of 2021 dismissed on

16.07.2021). Otherwise on merit also, relief has been granted to the opposite party no.1 in view of the fact that a similarly situated person, namely, Nirmal Chandra Swain had approached the tribunal by filing O.A. No. 754 of 2017, which was disposed of, at Annexure-6 to the original application vide order dated 08.01.2018, extending the benefit, and such decision was also implemented by orders dated 12.09.2018 and 20.10.2018 at Annexures-4 & 6 to the original application. More so, such type of issue was also settled in O.A. No. 625 of 2017 which was implemented by the Government in order dated 17.01.2018 vide Annexure-7. If the similar benefit has been extended by the tribunal to similarly situated persons in the original applications referred to above, and government has implemented the said orders, the opposite party-applicant should not have discriminated.

5. In course of hearing, on query made by this Court as to whether against the order passed by the Tribunal in O.A. No. 754 of 2017 and O.A. No. 625 of 2017, the State has preferred any writ petition, Mr. B.P. Tripathy, learned Addl. Government Advocate fairly stated that the said orders are not assailed by the State. In such view of the matter, this Court is not inclined to entertain this writ petition.

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

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE