

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14474 of 2014

Ajay Kumar Sahoo

....

Petitioner

Mr. J. Pal, Advocate

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. N.K. Praharaj, ASC

Mr. P.K. Mohanty,
Sr. Advocate

CORAM: JUSTICE V. NARASINGH

ORDER
23.08.2022

Order No.

04.

1. This matter is taken up through hybrid mode.
2. Heard Mr. J. Pal, learned counsel for the petitioner, Mr. P.K. Mohanty, learned Senior Counsel for the Cuttack Municipal Corporation for Opposite Party No.4 and Mr. N.K. Praharaj, learned Additional Standing Counsel, for Opposite Party Nos.1 to 3.
3. The petitioner who was working as a Surveyor in the Cuttack Municipal Corporation has filed the aforementioned Writ Petition seeking parity of pay allowances and pensionary benefits payable at par if the incumbents hold in-comparable post under the Government. Such claim is made relying on the Sub-section (3) of Section 119 of the Orissa Municipal Corporation Act, which is quoted hereunder:-

“Provided by the pay, allowances and pensionary benefits payable to the members of the Corporation services shall be paid out of the Corporation fund.”

4. Learned counsel for the petitioner, Mr. J. Pal has brought to the notice of the Court that during the pendency of the Writ Petition, there has been amendment of Section 119 on which reliance was placed in as much as the proviso under the erstwhile Section 119 indicating that the pay allowances and pensionary benefits shall be at par with those payable to incumbents of the comparable post under the Government has been substituted as under:-

“Provided by the pay, allowances and pensionary benefit shall be such as may be decided by the Government from time to time.”

5. In view of such change of law, this Court feels that interest of justice would be sub-served if the petitioner is given liberty to approach the authorities for fixation of his pay in accordance with the amendment provision of Section 119 Sub-section (3) notwithstanding the rejection of his earlier claim by the Government of Orissa in the Housing & Urban Development Department under letter dated 10.03.2014 at Annexure-6 referring to the unamendable provision of the Municipal Corporation Act, 2003.

6. Since the matter relates to pensionary benefits in fitness of things, if the petitioner makes a representation within a period four weeks from today, the State authorities shall decide the same and take a decision and communicate the result thereof to the petitioner within six weeks from the date of receipts of such representation.

7. This Writ Petition accordingly stands disposed of.
8. Urgent certified copy of this order be granted as per rules.

(V. NARASINGH)
Judge

Ayesha

