IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 13646 of 2017

Suresh Chandra Rana and others ….. ***Petitioner***

Mr. B. Das, Advocate

Vs.

State of Odisha and others ….. ***Opposite parties***

State Counsel

CORAM:
DR. JUSTICE B.R. SARANGI

ORDER
12.10.2022

Order No.
6

This matter is taken up through hybrid mode.

2. Heard Mr. B. Das, learned counsel for the petitioner and Mr. B.P. Tripathy, learned Additional Government Advocate.

3. Thought the notice issued on opposite party no.4 is made sufficient with return of A.D. from the said opposite party, none appeared on behalf of opposite party No.4.

4. All the petitioners, except petitioner No.19 are retired employees of Barpali Notified Area Council. They have filed this writ petition seeking direction to opposite parties to disburse the arrear salary, which was furnished by the Executive Officer, NAC, Barpali under Annexure-1 series. The petitioners have further seek direction to opposite party no.4 to act upon the decision of the council under Annexure-4.

5. Mr. B. Das, learned counsel for the petitioner contended that all the petitioners, except petitioner No. 19, are the retired employees under Barpali Notified Area Council. All the petitioners, who were appointed as Octroi Tax Sarkar, renamed as Tax Collector, are eligible to get the differential salary in view of the award dated 30.11.2000 passed in I.D. Case No. 45 of 1992, which has been made confirmed by this Court in W.P.(C) No. 15593 of 2007 vide order dated 24.04.2009 and affirmed by the apex Court in SLP (c) CC No. 19218 of 2011 by dismissing the SLP preferred by the opposite parties. Subsequently the Government allowed the scale of pay of Rs.5,200-20,200/- in favour of the Tax Collectors/ Licence Moharir/ Bill Moharir/ Law Moharir/ Work Sarkar/ Amin from

16.03.2012. Therefore, the petitioners having stood in the same footing and the recommendation having been made by the Council to extend such benefit to the petitioners, they are entitled to get such benefit. However the same has not been extended till date.

6. Though notice was made sufficient as against opposite parties 1 to 4, opposite parties 1 to 3 did not chose to file any counter affidavit. More so, even opposite party no.4 choose not to appear in this case. Thereby, on the basis of the pleadings available on record and by following the doctrine of *non-traverse* and since this is an old matter of the year 2013, this writ petition is being disposed of. Except petitioner no.19, all other petitioners are retired Octroi Tax Collectors of Barpali NAC, whereas petitioner No.19 is still continuing in service. As such these employees are eligible to get the differential salary in view of the award dated 30.11.2000 passed in I.D. Case No. 45 of 1992, which has been made confirmed by this Court in W.P.(C) No. 15593 of 2007 vide order dated 24.04.2009 and affirmed by the apex Court in SLP (c) CC No. 19218 of 2011 by dismissing the SLP preferred by the opposite parties. As a consequence thereof, the government has extended the scale of pay of Rs.5,200 to 20,200/- in favour of Tax Collectors/ Licence Moharir/ Bill Moharir/ Law Moharir/ Work Sarkar/ Amin from 16.03.2012, but the same benefit has not been extended in favour of the petitioners. Therefore, they have approached this court by filing the present writ petition. As the petitioners stand in the same footing being appointed as Octroi Tax Sarkar, renamed as Octroi Tax Collector, they are entitled to get such benefit as due and admissible to them and thereby Barpali NAC has also passed a resolution on 27.10.2016 to extend the benefit to the petitioners, but till date the Government has not taken any decision on the same. The claim of the arrear salary has been accrued in favour of the petitioners from 30.11.2000 and in the meantime more than 20 years have been passed and almost all the petitioners except petitioner No.19 have retired from service. Their claim for payment of arrear salary has been sent by Barpali NAC under Annexure-1, but same is still pending with the Government.

7. In view of such position, this Court directs the opposite parties 1 to

3 to take immediate action with regard to extension of benefit in terms of Annexure-1 and 4 as expeditiously as possible, preferably within a period of three months from the date of communication of the certified copy of the order.

8. With the above observation/direction, the writ petition stands disposed of.

9. Issue urgent certified copy as per rules.

Arun **(DR. B.R. SARANGI, J.)**

HIGH COURT
सत्यमेव जयते
ORISSA