

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7236 of 2022

Barada Prasad Rath

....

Petitioner

Mr.Arabinda Tripathy, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr.P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

11.04.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioner as well as the learned Additional Standing Counsel for the State.

3. The present writ application has been filed with the following prayer:

“It is therefore prayed that this Hon’ble Court may graciously be pleased to admit the writ petition and issue Rule Nisi to the Opposite Parties to show cause as to

- i) why the impugned order dated 18.01.2022 under Annexure-9 in the facts and circumstances of the case will not be declared as illegal and as such liable to be set aside; and
 - ii) Why the Opposite Parties will not be directed to extend the financial benefit in favor of the Petitioner with Grade Pay of Rs.1650/- w.e.f. 01.03.2009 within a stipulated time; and
 - iii) Why the Opposite Parties will not be directed to sanction and disburse the differential salary on such extension of the benefit w.e.f. 01.03.2009 within a stipulated time;
- And if the Opp.Parties do not show cause then the Rule

be made absolute by issuing appropriate writ/writs and any other order as deem fit be passed.”Learned Additional Government Advocate seeks some time to take instruction in the matter.

4. It is submitted by the learned counsel for the Petitioner that the relief sought for in the present writ application has been considered by the Orissa Administrative Tribunal in O.A.No.3261(C) of 2014 and the same was allowed by a common order dated 25.04.2017 along with other batch of cases. Thereafter the State approached this Court by filing W.P.(C) No.24361 of 2017. A Division bench of this Court by order dated 18th May, 2018 dismissed the writ application confirming the order passed by the learned Orissa Administrative Tribunal. Thereafter the State approached the Hon’ble Supreme Court of India by filing Special Leave Petition (Civil) Diary No(s) 11066 of 2020 along with batch of SLPs. By order dated 13th July, 2020 the SLP preferred by the State against the order as discussed above was dismissed. Therefore, the decision of the Tribunal in the Original Application has attained its finality and the principle of law decided therein is binding so far as similarly situated employees are concerned. It is further submitted by the learned counsel for the Petitioner that he has submitted a representation on 18.12.2019 claiming similar benefit as has been given to similarly situated persons.

5. However, the representation dated 18.12.2019 filed by the Petitioner has been rejected by the authority without considering the judgment of the Hon’ble Supreme Court as well as of this Court simply on the ground that the Petitioner was not a party to the said round of litigation wherein the order of the Tribunal has been confirmed by the Hon’ble Supreme Court.

6. Learned counsel appearing for the State on the other hand

submits that the representation of the Petitioner has been duly considered and the same has been rejected by order dated 13.01.2022 by the authority. He further submits that the Petitioner is not entitled to the benefit claimed by him and as such the writ application is liable to be dismissed.

7. Considering the submissions made by the respective parties and keeping in view the facts and circumstances of the case as well as the law laid down by the Hon'ble Apex Court as well as this Court, the present writ application is being disposed of at the stage of admission by setting aside the order dated 13.01.2022. Further the Opposite Party No.1 is directed to reconsider the case of the Petitioner keeping in view the judgment of the learned Tribunal as well as this Court which was ultimately confirmed by the Hon'ble Apex Court. It is made clear that the ratio decided in the above referred case is applicable to all similarly placed employees. Merely because, the Petitioner is not a party to the said litigation his claim cannot be denied. Hence the Opposite Party No.1 shall do well to consider the case of the Petitioner expeditiously within a period of two months from the date of production of certified copy of this order. Further, the decision so taken in the case of the Petitioner shall be communicated to him within a period of two weeks from the date of passing such order.

8. With the aforesaid observation, the writ application stands disposed of.

9 Issue urgent certified copy as per Rules.

