

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7755 of 2022

Abhaya Kumar Das and others

.... Petitioners
Mr.N.Sarkar, Advocate

-versus-

State of Odisha and others

.... Opp.Parties
Mr. Y.S.P.Babu, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
29.03.2022

Order No.

- 01.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioners and the learned Additional Government Advocate..
 3. The present writ application has been filed by the Petitioners with the following prayer:
“It is, therefore, prayed that this Hon’ble Court may graciously be pleased to issue notice to the opposite parties calling upon them to file show cause as to why the order dated 03.11.2020/10.03.2022 issued by the Opposite Party Nos. 1 and 3 under Annexure-7 and 9 shall not be quashed and after hearing the parties be pleased to quash the order dated 03.11.2020/10.03.2022 under Annexure-7 and 9.”
 4. Learned counsel for the Petitioners submits that all the Petitioners, who are continuing as MPHS (Male) under Kendrapara district have completed 20 years of service prior to 01.01.2013,

therefore they are entitled for Grade Pay of Rs.4600/- with effect from 01.01.2013. It is also submitted by the learned counsel for the Petitioners that grant of RACP to MPHWS (Male & Female) has already been decided by the learned Tribunal in several cases and confirmed by this Court. The order of Opposite Party No.1 directing refixation of Grade Pay and recovery was quashed by the learned Tribunal and confirmed by this Hon'ble Court in W.P.(C) No.2166 of 2020 and vide order dated 22.01.2020 this Hon'ble Court directed to extend the benefit of Grade Pay to similarly placed MPHWS (Male and Female) on completion of required number of years of service. The grant of RACP benefit to employees in the absence of cadre have already been decided by this Hon'ble Court in case of **State of Orissa v. Biharilal Barik** vide judgment dated 27.06.2016 which has been confirmed by the Hon'ble Apex Court.

5. Learned counsel for the Petitioners submits that similar question had come up for consideration before a Division Bench of this court in W.P.(C) no.2831 of 2016 disposed of on 27.06.2016 (State of Odisha and another v. Biharilal and others) which was arising out of an order dated 12.03.2015 passed by the State Administrative Tribunal in O.A.No.520 of 2014. It is also submitted by the learned counsel for the Petitioners that the Opposite Parties may be directed to consider the case of the Petitioners as per the settled law decided in the case of **State of Odisha v. Biharilal Barik** decided by this Court in W.P.(C) No.20358 of 2017 decided on 23.08.2017.

6. Considering the aforesaid facts and circumstances of the case and the fact that the Petitioners have been discriminated, this Court remits the matter to the authority to consider the case of the Petitioners afresh in the light of the judgment rendered by this Court in the case of **Biharilal Barik (supra)** as well as the Resolution of the Finance Department, Government of Odisha dated 06.02.2013. The case of the

Petitioners as well as other similarly situated persons belonging to Health & Family Welfare Department be considered strictly in accordance with law. The entire exercise shall be completed within a period of three months from the date of production of certified copy of this order. It is open for the Petitioners to appear before the authority along with certified copy of this order along with other documents and orders/judgments, they are relying upon.

7. With the above direction, the writ application stands disposed of.
8. Issue urgent certified copy as per Rules.

RKS

