

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8103 of 2022

Pradip Kumar Padhi

..... Petitioner
Mr. S.K.Joshi, Advocate

-versus-

State of Odisha and others

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

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

ORDER
18.04.2022

- 01.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioner as well as learned Additional Government Advocate.
 3. The present writ application has been filed with the following prayer:

“The Petitioner, therefore, most humbly prays that keeping in view of the aforesaid fact and circumstances into the consideration this Hon’ble Court be graciously pleased to admit the writ petition call for records and after hearing the parties pleased to allow the writ petition and quash the impugned order dated 12.01.2022 passed by opposite party no.2 as similar benefit having been extended to juniors and counterpart to the petitioner.

And issue any order or orders and direction as this Hon’ble Court deemed fit and proper the fact and

circumstances of the case.”

4. It is submitted by the learned counsel for the Petitioner that the Petitioner after serving for 30 years has in the meantime retired on attaining the age of superannuation. It is further submitted by the learned counsel for the Petitioner that the Petitioner is getting the benefit of 3rd RACP while he was in service and his Grade Pay was fixed at Rs.5400/- However, the post retirement pension papers were processed and the A.G. of Orissa sought for clarification from the department with regard to sanction of Grade Pay at Rs.5400/- under 3rd RACP.

5. On perusal of the rejection order dated 12.01.2022 under Annexure-11, it is seen that the Director of Agriculture & Food Production, Odisha has stated that Agriculture & F.E. Department disallowed for sanction of 3rd RACP at Rs.5400/- in favour of the Agriculture Overseers vide Office Order No.12480 dated 02.07.2021 for which the Petitioner is not entitled to get Rs.5400/- as Grade Pay for 3rd RACP. Accordingly the representation of the Petitioner has been rejected.

6. It is further submitted by the learned counsel for the Petitioner that the Petitioner was paid the 1st and 2nd RACP duly. Thereafter he was also receiving Grade Pay at Rs.5400/- in 3rd RACP till his retirement. However, the authority without assigning any reason or without assigning any show cause has taken a decision which is illegal and not in accordance with law.

7. Learned Additional Government Advocate on the other hand submits that since the concerned department took a decision not to allow RACP at the rate of Rs.5400/- in favour of the Petitioner. No sanction order has been forwarded to A.G. for processing of the retiral benefit of the Petitioner. Therefore, the decision taken by the

Director is just and proper.

8. Considering the submissions, this Court is of the considered view that the authority has sanctioned 3rd RACP at the rate of Rs.5400/- as Grade Pay, the same could not have been made without following the principle of natural justice and without issuing any notice to the Petitioner. Further, similar benefit has also been extended to the similarly placed employees. In the impugned order no reason has been assigned as to why the 3rd RACP has been reused has been served. In such view of the matter, this Court is of the considered view that the impugned order under Annexure-11 is not sustainable in the eye of law. Therefore the same is hereby quashed. Further, it is directed that to consider the pensionary benefit taking into consideration the Grade Pay at the rate of Rs.5400/- at 3rd RACP. It is further directed that the Opposite Parties shall do well to calculate, sanction and disburse the pension and other retiral benefit to the Petitioner within a period of three months from the date of communication of the order.

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

10. Issue urgent certified copy as per Rules.

RKS

(A.K. Mohapatra)
Judge