

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 15988 of 2013

M. Punneya

.....

Petitioner

Mr. N.R. Routray, Adv.

Vs.

Union of Indian and others

.....

Opposite Party

Mr. S. Swain, Adv.

(Railway Deptt.)

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

16.03.2022

Order No.

5.

This matter is taken up through hybrid mode.

2. Heard learned counsel for the parties.

3. The petitioner has filed this writ petition assailing the order dated 07.04.2013 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 17 of 2010 under Annexure-1, by which the tribunal by observing that there is nothing further to be adjudicated about the claim of the petitioner, as the same has already been decided in O.A. No. 442 of 2004 by the tribunal, which was upheld by this Court, vide order dated 29.07.2009, in W.P.(C) No. 14804 of 2006, denied the financial benefits accrued to the petitioner.

4. Mr. N.R. Routray, learned counsel for the petitioner contended that the petitioner is entitled to the benefits as due and admissible to him, but the same has been illegally denied by the tribunal. Therefore, the petitioner has approached this Court by filing the present writ petition. It is further contended that the question of extending such benefit though was subject matter of consideration before the tribunal in O.A. No. 442 of 2004, but the same was not properly adjudicated. Even though this Court confirmed the same, vide order dated 29.07.2009, in W.P.(C) No. 14804 of 2006, but the order impugned passed by the tribunal relying upon the same, cannot have any justification.

5. Mr. S. Swain, learned counsel appearing for opposite parties-

Railway Department contended that since the relief claimed by the petitioner has already been adjudicated, the tribunal is well justified by rejecting his claim, as the same is hit by the principles of res judicata.

6. Having heard learned counsel for the parties and after going through the records, this Court is of the considered view that since the relief sought by the petitioner had been adjudicated by the tribunal in O.A. No. 442 of 2004, which was upheld by this Court, vide order dated 29.07.2009, in W.P.(C) No. 14804 of 2006, the petitioner could not have reiterated the selfsame issue before the tribunal by filing O.A. No.17 of 2010 and, as such, the relief claimed by the petitioner is hit by the principles of res judicata.

7. The opposite parties have filed counter affidavit, of which paragraph-13 reads as under:-

“That in reply to the averments made in para-1 to 3 of the writ petition it is humbly submitted that the learned tribunal while dismissing the original application no.17 of 2010 on 17.04.2013 has categorically observed that in the earlier original application no.442 of 2004, the claim of the petitioner has been adjudicated. The learned tribunal subsequently has upheld the judgment of this Hon’ble Court which has already been implemented by the Railway Administration. Accordingly, the differential arrears arising out of promotion for the period from 13.02.2002 to 22.08.2003 amounting to Rs.15,940/- has been drawn through the regular salary bill of October, 2009 and paid to the petitioner. hence the instant writ petition is hit by constructive res-judicata and the petitioner is estopped to file the instant writ.”

8. In view of the above, the writ petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE