

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 6566 of 2013

Lalita Kumari Sahoo

.....

Petitioner

Mr. P.K. Sahoo, Adv.

Vs.

Union of India and others

.....

Opposite Parties

Mr. P.K. Parhi, ASGI

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

08.03.2022

Order No.

4.

This matter is taken up through hybrid mode.

2. Heard learned counsel for the petitioner and Mr. P.K. Parhi, learned Asst. Solicitor General of India.

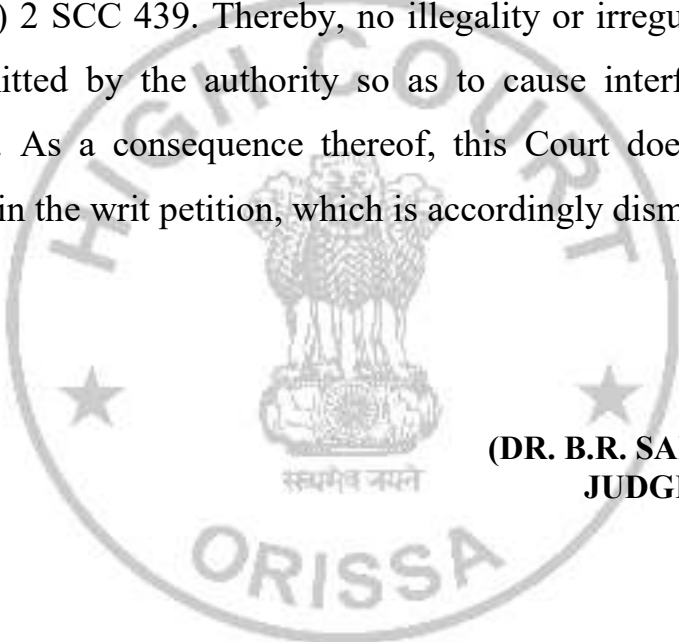
3. The petitioner has filed this writ petition assailing the order dated 19.02.2013 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.881of 2010, dismissing the original application.

4. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner, who is the legal representative of the deceased employee, had approached the tribunal against the withdrawal of second ACP sanctioned/granted in favour of her husband.

5. The stand of the opposite parties is that the husband of the petitioner was initially joined as Draftsman and subsequently during his service span, he was promoted to the post of Building Overseer (JE) and AE (C). As per the DOP & T order dated 09.08.1999, an employee would be entitled to two financial up-gradation, i.e., after completion of 12/24 years of regular service in case of stagnation. Since the husband of the petitioner had

already got two promotions, he was not entitled to the second financial up-gradation under ACP, but the same was inadvertently granted to him and the mistake having been noticed, the same was subsequently withdrawn.

6. In the above view of the matter, this Court is of the considered view that if the benefit had been extended under an erroneous conception, such mistake can be subsequently rectified by the authority concerned, in view of the judgments of the apex Court in the case of *West Bengal State Electricity Board v. Patel Engineering Co. Ltd.*, (2001) 2 SCC 451 and *Deva Metal Powders (P) Ltd. Vs. Commissioner, Trade Tax, Uttar Pradesh*, (2008) 2 SCC 439. Thereby, no illegality or irregularity has been committed by the authority so as to cause interference by this Court. As a consequence thereof, this Court does not find any merit in the writ petition, which is accordingly dismissed.

The seal of the Orissa High Court is a circular emblem. It features the State Emblem of India at the top center, which is a four-lion capital of an abacus. Below the emblem is the motto 'Satyameva Jayate' in Devanagari script. The word 'ORISSA' is written in large, bold, capital letters at the bottom. Two five-pointed stars are positioned on either side of the central emblem. The words 'HIGH COURT' are written in a semi-circle at the top of the emblem.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok