

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 20556 of 2013

Bana Bihari Rout

....

Petitioner

Mr. S.K. Rath, Advocate

-versus-

***Orissa High Court represented through
its Registrar (Judicial)***

....

Opposite Party

Mr. P.K. Muduli, AGA

CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK

ORDER

30.06.2022

Order No.

11.

1. The Petitioner, presently working as Driver in this Court, has filed this present petition with prayer for two directions. One is to step up the pay of the Petitioner on par with, Sri Dibakar Mishra who is junior to him and re-fix the scale of pay under Rule 74(b) of Orissa Service Code with effect from 11th March 2004, the date of promotion of the Petitioner from Peon to Driver.

2. In response to the notice issued in the present petition, a counter affidavit has been filed on behalf of the Opposite Party in which in para 8, it is stated as under:

“8. That it may not be out of place to mention here that in view of Orissa High Court (Appointment of Staff) (Amendment) Rules, 2010 and Rules, 2011, Shri Dibakar Mishra along with five other Class IV employees of the Court were promoted to the post of Driver in the scale of Pay of Rs.5200-20200/- with Grade Pay of Rs.1900/- vide office order dated 5.12.2012 marked as Annexure-7 to the writ application. Consequent upon promotion and joining of Shri Dibakar Mishra as Driver w.e.f. 6.12.2012, the pay of Shri Mishra has been fixed at the stage of Rs.8080/- pursuant to Rule-13(i) of ORSP Rules, 2008 in the scale of Pay of Rs.5200-20200/- with G.P. of Rs.1900/-. By the time of

promotion of Shri D. Mishra, the petitioner who had earlier joined in the post of Driver was drawing his pay at the stage of Rs.7630/- w.e.f. 1.3.2012 in the scale of Rs.5200-20200/- and Grade Pay of Rs.1900/-.”

3. The further averment in Para 6 of the counter affidavit also does not dispute the fact that Shri Dibakar Mishra is junior to the Petitioner as regular driver and yet he is drawing higher scale of pay.

4. The undisputed facts are that Shri Dibakar Mishra as driver was junior to the Petitioner and yet was getting his pay at a scale of Rs.8080/- as on 1st March, 2013, whereas the Petitioner was getting a scale of Rs.7920/-. The Petitioner became a regular driver earlier to Shri Mishra and being senior to Shri Dibakar Mishra the Petitioner is entitled in terms of Note-2 below Rule-7(3) of the ORSP Rule, 2008 for a step up of his pay on par with Shri Mishra.

5. Accordingly, a direction is issued to the Opposite Party to re-fix the scale of pay of the Petitioner with effect from 11th March, 2004 on par with the pay scale of Dibakar Mishra in terms of Rule 74(b) of the Orissa Service Code read with Note-2 below Rule-7(3) of the ORSP Rule, 2008. The necessary orders be issued and the arrears be paid to the Petitioner within a period of eight weeks from today. The writ petition is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge