

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10126 of 2022

Gajendranath Barik

Petitioner
....
Mr. P.K. Mohapatra, Advocate

-versus-

State of Orissa and others

Opposite Parties
....
Mr. K.K. Nayak, ASC for State

**CORAM:
JUSTICE A.K.MOHAPATRA**

ORDER
02.05.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard Mr.P.K. Mohapatra, learned counsel for the Petitioner and Mr. K.K. Nayak, learned Additional Standing Counsel for the State.
3. The Petitioner, who was working as a Class-IV employee under the administrative control of Collector, Cuttack has filed this writ petition seeking direction to the Opposite Parties to grant similar benefit of pay protection.
4. Mr.P.K.Mohapatra, learned counsel for the Petitioner contended that similar question had come up for consideration before the learned Tribunal in O.A. No.2250(C) of 2004 and the learned Tribunal, vide order dated 29.08.2011, holding that the order of the Finance Department dated 15.05.1997 is not applicable to the applicant and the cancellation of the benefit already extended to the applicant is not tenable, quashed the same, and accordingly directed

the Opposite Parties to restore the benefits to the applicant, as was granted to him, prior to passing of the impugned order dated 15.05.1997. The said order of the learned Tribunal was challenged by the State before this Court in W.P.(C) No.6895 of 2013 and a Division Bench of this Court, vide order dated 02.03.2016, confirmed the order passed by the learned Tribunal. Accordingly, the benefit has been extended to the applicant in O.A. No.2250(C) of 2004, disposed of on 29.08.2011. It is further contended that in a similar matter, i.e. *State of Odisha vs. Padmalochan Kalia (W.P.(C) No.22327 of 2013 disposed of on 21.03.2017)*, the State preferred SLP (C) Diary No.40571 of 2017, which was also dismissed vide order dated 19.01.2018. Therefore, it is contended that the Petitioner's case is fully covered by the aforesaid orders and, thereby, he is entitled to get the pay protection in terms of the aforesaid orders.

5. Mr.K.K. Nayak, learned Additional Standing Counsel for State looking at the orders passed by this Court as well as the order of the Hon'ble Apex Court, does not dispute the position.

6. In the above view of the matter and after hearing learned counsel for the parties, this writ petition stands disposed of directing the Opposite Parties to extend the benefit to the Petitioner at par with the order passed by this Court on 02.03.2016, passed in W.P.(C) No.6895 of 2013, by which the order of the learned Tribunal dated 29.08.2011, passed in O.A. No.2250(C) of 2004 has been confirmed and also the subsequent order passed by this Court on 21.03.2017 in W.P.(C) No.22327 of 2013, which has been confirmed by the Hon'ble Apex Court vide order dated 19.01.2018 in SLP (C) Diary No.40571 of 2017, taking into consideration Annexures-4 and 6,

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within a period of three months from the date of production of a certified copy of this order.

7. Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge

U.K.Sahoo

