

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC No.10897 of 2022

Hemanta Kunar Jena

....

Petitioner

Mr. S.K. Pal, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

09.05.2022

Order No.

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

“The Petitioner therefore humbly pray that, this Hon’ble Court may graciously be pleased to allow the Writ Application, issue Rule “Nisi” calling upon the opp. Parties to show cause as to why the Annexure-7 are not set aside;

And if the opp. parties are fail to show cause or show insufficient cause, make the said rule absolute by issuing appropriate Writ(s)/direction(s) in this fact of the present case and directing the opp. party No.3 to the sanction / fixation pay in existing promotional pay

band and grade pay i.e. PB-II (9300-34800) G.P.4600/- in pay matrix attached to the promotional post as per (MACP entitlement) RACP Rule-2013 fixed basic pay Rs.44,900/- in level-10, Cell-1 w.e.f. 01.01.2016 onwards as per the pay matrix as per ORSP Rules, 2017 for the post of Asst. Fisheries Officer towards 2nd RACP on completion of 20 years of continuous service; And also disburse all legal dues and service benefit to the petitioner taking into Annexure-1 and 2 pass any other order/direction as this Hon'ble Court may deem fit and proper in facts and circumstances of the case;"

4. It is submitted by learned counsel for the Petitioner that the Authorities have although extended the benefits under 2nd RACP scheme, however, he has been paid less under the same scheme. Learned counsel for the Petitioner further submits that persons similarly situated have been extended a better scale of pay than what has been given to the present Petitioner. This *prima facie* appears to be discriminatory and arbitrary on the part of the Opposite Party No.3

5. Learned counsel for the State on the other hand submits that the Authority may be directed to examine the said aspect.

6. Considering the aforesaid submission and keeping in view the allegation made in the writ petition, *prima facie* it appears that the action of the Authority is arbitrary and discriminatory in nature. Accordingly, this Court directs the Petitioner to file a fresh representation before the concerned Authority highlighting his grievance with all supporting documents along with certified copy of this order within a period of two weeks from today. In such event, the Authority shall consider and dispose of the representation of the Petitioner strictly in accordance with law by passing a speaking and

reasoned order within a period of two months. Decision so taken be communicated to the Petitioner within a period of two weeks. It is further directed that the Authority shall consider the representation of the Petitioner and extend the benefits in the event it is found that similar benefits have been extended to other similarly situated persons working in different departments of the Government of Odisha.

7. With the above direction, the writ petition stands disposed of.

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



RKS