

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12442 of 2022

Gameswar Behera

....

Petitioner

Mr. K.C. Sahoo, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. A. Behera, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

15.11.2022

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. Perused the record.
3. The present writ petition has been filed by the petitioner with a prayer for a direction to quash the impugned order of rejection dated 22.02.2022 under Annexure-13 and further prayer for a direction to the CDM&PHO, Cuttack (Opposite Party No.4) to sanction and disburse the Grade Pay of Rs.2,000/- along with corresponding scale of pay Rs.5200-20,200/- in P.B.-1 in favour of the petitioner from the date of regularization with all consequential arrear financial benefits as due and admissible to the petitioner.
4. It is submitted by learned counsel for the petitioner that in many other districts of Orissa similarly placed persons with the petitioner has been extended the benefits of Grade Pay of Rs.2,000/-

in respect of the Bolangir district. It is further submitted by Mr. Sahu, learned counsel for the petitioner that Odisha Administrative had issued necessary orders and thereafter the grade pay in Bolangir, Gajapati districts have been paid. Further, it is submitted by learned counsel for the petitioners that in the rejection order dated 22.02.2022 passed by the CDM&PHO, Cuttack (Opposite Party No.4), the petitioner seeks training. Therefore, he is not entitled to grade pay of Rs.2000/- on such grounds. Learned counsel for the petitioner submits that the training is not the condition precedent to grade pay claimed by the petitioner that in respect of other districts grade pay of Rs.2000/- MPHWM(M) although he had not undergone training. He further contends that training of MPHWM(M) entirely depends on State Government, therefore, the petitioner is bound to legal obligation to undertake training anywhere conducted by the Government. Further, referring to letter dated 03.11.2020 of Government of Odisha, Health and Family Welfare Department issued clarification under which D. Pharma qualified persons appointed as MPHWM(M) having extended the benefit of grade pay of Rs.2,000/- along with pay band. In such view of the matter, learned counsel for the petitioner submits that the petitioner is illegally barred to get the claim of grade pay as due and admissible as on date.

It is submitted by Mr. Sahu, learned counsel for the petitioner that the petitioner has been sanctioned pay band which is now prescribed for the petitioners that G.P. 1750.

5. Learned counsel for the State, on the other hand, submits that similar benefits be given to the similarly situated candidates, however, let the petitioner approach the authority again, who shall

consider the case of the petitioner keeping in view the fact that the similar benefits have been extended to similarly engaged persons undergoing the training. The authority shall take decision within the stipulated period of time in accordance with law.

Learned counsel for the State further bring its notice to the Court that in the rejection order, the Opposite Party No.4 has taken a ground that the candidates who have been extended benefit having D.Pharm qualification, therefore, they have not extended the similar benefit. However, the case of the petitioner has not considered by the said Opposite Party.

6. In reply to such submission, learned counsel for the petitioner submits that the qualification of D.Pharm was noticed in the year 2012. However, the petitioner engaged much prior to that. Therefore, the same shall not stand at par in getting grade pay so far as petitioner is concerned.

7. Having heard learned counsels for the respective parties and upon careful consideration of the grounds of the case and further considering the fact that the similar benefits have been extended to similarly situated candidates, order passed by the Odisha Administrative Tribunal whether they are not required to undergo training to extend the benefit of grade pay by setting aside the impugned order dated 22.02.2022 remitted back to the CDM&PHO, Cuttack (Opposite Party No.4) to consider the matter afresh in accordance with law. The petitioner is directed to approach the CDM&PHO, Cuttack (Opposite Party No.4) along with certified copy of this order within two weeks from today. In such event, the CDM&PHO, Cuttack (Opposite Party No.4) shall do well to consider

the case of the petitioner and provide an opportunity of hearing and further consider the matter in accordance with law particularly keeping in view the fact that the similarly situated candidates in other districts and in the event, the petitioner is found eligible to grade pay and pay band sanction and disburse the same in their favour within a period of six weeks from the date of production of certified copy of this order.

7. With the aforesaid observation/direction, the writ petition stands disposed of.

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

Jagabandhu

