

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12615 of 2022

Alok Tete

....

Petitioner

-versus-

Special D.G. of Police, SAP,
Odisha & Ors.

....

Opposite Parties

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
17.10.2022

Order No

04. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Ms. Roy Choudhury, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned Standing Counsel appearing for the Opp. Parties.
3. The present writ Petition has been filed with the following prayer:-

"In the facts and under the circumstances stated above, the Hon'ble Court would graciously be pleased to admit this WRIT application and issue:

a) Writ in the nature of Mandamus directing the O.P.to grant the petitioner the benefits of RACPs/MACP's due since 2016.

b) Rule NISI, calling upon the opp. Parties to show cause as to why Annexure-4 shall not be set aside / quashed being arbitrary and illegal; And if the O.P fail to show cause or show insufficient cause make the said Rule absolute;

c) Issue a writ in the nature of Mandamus directing the Opposite Parties not to take any coercive action against the petitioner during pendency of this WRIT application.

d) Issue any appropriate writ(s)/direction(s)/order(s) deemed fit in the fact and circumstances of the case. And for which act of your kindness, the petitioner shall remain ever pray as in duty bound."

4. Learned counsel for the Petitioner submitted that the Petitioner was initially engaged as a Sepoy on provisional basis w.e.f.25.12.2006 and the said fact is reflected in the extract of the service book filed under Annexure-3.

5. It is also submitted that the Petitioner along with similarly situated persons were regularized in their services w.e.f.31.12.2012 vide office order dtd.07.09.2017. Not only that they were extended with the benefit of MACP vide order issued on 24.08.2020 under Annexure-3 series. But it is submitted that without considering that aspect and the benefit extended in favour of similarly situated persons, the claim of the Petitioner to get the said benefit was rejected by the O.P. No. 3 vide the impugned order dtd.21.03.2022 under annexure-4.

6. Mr. Balabantaray, learned Standing Counsel on the other hand made his submission basing on the stand taken in the counter affidavit. It is submitted that since the Petitioner was regularized w.e.f.10.11.2020 the Petitioner is not entitled to get the benefit as claimed and his claim has been rightly rejected.

7. Ms. Roy Choudhury, learned counsel for the Petitioner brought to the notice of this Court the stand taken by the Opp. Parties in Para 7 of the counter. This Court finds that in Para 7 of the counter the Opp. Parties have clearly admitted that the Petitioner is regularized under ST category vide Sl. No. 6 w.e.f.31.12.2012 vide order dtd.07.09.2017 under Annexure-A/3. This Court also finds that the person placed at Sl. No. 8 of the said order in ST category and the person placed at Sl. No. 1 in SEBC category have been

extended with the benefit of MACP/RACP vide different orders issued by the Opp. Parties.

8. Therefore, this Court finds that the rejection of the claim made vide the impugned order is not sustainable as similarly situated persons have been extended with the said benefit. Therefore, this Court is inclined to quash the order dtd.21.03.2022 and while quashing the same, directs the Opp. Parties to extend the benefit of RACP/MACP as has been extended in favour of person similarly situated vide order dtd.24.08.2020 and in favour of Purusottam Dharua, a person placed at Sl. No. 8 of the list under Annexure-A/3. The entire exercise shall be completed by the O.P. No. 3 within a period of two (2) months from the date of receipt of this order.

9. The writ Petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha

