

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14128 of 2020

***State Government of Odisha
& Ors.***

.....

Petitioners

Mr. B.P. Tripathy, AGA

Vs.

Smt. Jayanti Naik

.....

Opposite party

Mr. P.K. Mishra, Adv.

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

23.03.2022

Order No.
02.

This matter is taken up through hybrid mode.

2. Heard Mr. B.P. Tripathy, learned Additional Government Advocate for the State-petitioners and Mr. P.K. Mishra, learned counsel for the opposite party.

3. The State-petitioners have filed this writ petition challenging the order dated 21.06.2019 passed in O.A. No. 1839 of 2019, by which the Odisha Administrative Tribunal, Bhubaneswar, while allowing the said O.A. at the admission stage, directed the State-petitioners to grant 2nd RACP with grade pay of Rs.4200/- on completion of 20 years w.e.f. 01.01.2013 and 3rd RACP with grade pay of Rs.4600/- in pay band-II on completion of 30 years of service w.e.f. 01.01.2013 and fix the pay of opposite party and release arrear dues in her favour within three months as the case of the opposite party is covered by the ratio decided vide order dated 27.06.2017 in O.A. No. 1926 of 2016 by the Division Bench of the tribunal.

4. Mr. B.P. Tripathy, learned Additional Government Advocate for the State-petitioners contended that the factual matrix of the case, in hand, is different from that of the factual matrix of O.A. No. 1926 of 2016 decided vide order dated 27.06.2017 by the Division Bench of the tribunal. The Division Bench of the tribunal has not considered the factual matrix of the said case in proper perspective.

5. Mr. P.K. Mishra, learned counsel for the opposite party contended that since the case of the opposite party is covered by the ratio decided by the Division Bench of the tribunal, vide order dated 27.06.2017 in O.A. No. 1926 of 2016, which has been confirmed by this Court, the tribunal has granted benefit to the petitioner, vide order dated 21.06.2019 in O.A. No.1839 of 2019. Thereby no illegality or irregularity has been committed by the tribunal.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that it is too late to contend that the fact of this case is totally different from that of O.A. No. 1926 of 2016 decided by the Division Bench of the tribunal vide order dated 27.06.2017, in view of the fact that the copy of the original application was served in advance on the State Counsel before the matter was taken up by the tribunal. As such, while passing the order dated 21.06.2019 in O.A. No.1839 of 2019, the tribunal has heard learned counsel for the State, Mr. N. Praharaj, and by that time learned State Counsel did not raise any objection that the matter is not covered by the ratio decided by the Division

Bench of the tribunal, vide order dated 27.06.2017 in O.A. No. 1926 of 2016, or sought time to obtain instruction in the matter. Instead of doing so, learned State Counsel agreed to dispose of O.A. No.1839 of 2019 in terms of the order passed by the Division Bench of the tribunal in O.A. No. 1926 of 2016, which was confirmed by this Court. Therefore, at this stage, learned Additional Government Advocate cannot urge the said question before this Court and also speak volumes about the same which cannot be reflected in the order itself. Thereby, this Court is not inclined to entertain this writ petition.

7. In view of the above, the writ petition merits no consideration and the same is accordingly dismissed.

Alok/Puspa

