

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15291 of 2022

Ganesh Chandra Singh **Petitioner**
Mr. Pradeep Kumar Mahapatra, Advocate
-versus-
State of Odisha and others **Opposite Parties**
Mr.P.C. Das, ASC

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
27.06.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for both the parties.
3. The writ petition has been filed by the Petitioner with the following:

“In view of the aforesaid facts and circumstances as narrated above, it is prayed that this Hon’ble Court be graciously be pleased to admit the Writ Petition and issue Rule Nisi for any other appropriate Writs against the Opp. Parties calling upon the opposite parties to show cause as to why the office order at Annexure-10 shall not be set aside and the Petitioner shall not be allowed grade pay of Rs.2800/- as 2nd RACP in modification of the order at Annexure-3 along with consequential pay revision under ORSP Rules, 2017;

And

And, if the Opp. Parties failed to show cause or show insufficient cause, make the said rule absolute by setting aside office order at Annexure-10 and allow the petitioner grade pay of Rs.2800/- as 2nd RACP in

modification of the order at Annexure-3 along with consequential pay revision under ORSP Rules, 2017.

And/or issue any other appropriate writ(s)/order(s), direction(s) as deem fit and proper in the fitness of the case.

And for which act of your kindness, the Petitioner shall remain duty bound as ever.”

4. It is submitted by learned counsel for the Petitioner that without examining the fact in its proper perspective, the Authorities have rejected the grievance of the Petitioner vide order dated 6.11.2021 under Annexure-10. It is submitted by learned counsel for the Petitioner that while considering the representation of the Petitioner pursuant to the direction of this Court in the earlier writ petition, bearing W.P.(C) No.21608 of 2021, disposed of on 02.08.2021, the Opposite Parties have mechanically rejected the representation of the Petitioner without considering the entire issue in its proper perspective and taking into consideration the law laid down by the Hon'ble High Court in the case of ***State of Odisha and another vs. Bihari Lal Barik*** in ***W.P.(C) No. 2831 of 2016*** disposed of on 27.06.2016 confirmed by the apex Court vide order dated 23.08.2017 in Diary No.20358 of 2017. It is further submitted by learned counsel for the Petitioner that the Orissa Administrative Tribunal while considering the O.A. No.65 of 2016 and also the ratio laid down by this Court in the case of ***Bihari Lal (supra)*** allowed the benefits to similarly circumstanced persons, whereas the case of the Petitioner rejected. He further submits that without consideration the legal aspects, the Authorities have rejected the claim of the Petitioner by using straight jacket formula.

5. Learned counsel for the State on the other hand submits that the Authorities have taken into consideration the aspect of the matter

and thereafter they found that Petitioner was not suitable to get such benefits. When a question was posed to the State Counsel whether taking into consideration the law laid down by this Court in ***Bihari Lal (supra)***, learned State Counsel submits that the laid down in the present issue by various courts having not taken into consideration while considering the grievance of the Petitioner. He, however, submits that the matter may be remanded back to the concerned Authority and direction may also be issued to dispose of the same taking into consideration the judgment of this Court in the case of ***Bihari Lal (supra)*** and dispose of the same within a stipulated time period.

6. Hearing learned counsel for the parties and taking into consideration the materials available on record as well as law on the subject, this Court disposes of the writ petition at the stage of admission by setting aside the impugned order dated 6.11.2021 under Annexure-10 and further Opposite Party No.4 is directed to reconsider the matter in the light of the law laid down by this Court in the case of ***Bihari Lal (supra)*** and the judgment of the Tribunal under Annexure-8 within a period of two months from the date of production of certified copy of this order.

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

8. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge