

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 19882 of 2022

Nira Kumbhakar

....

Petitioner

-versus-

State of odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

23.08.2022

Order No

- 01.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. P.K. Mohapatra, learned counsel for the petitioner and Mr. M.K. Balabantaray, learned Standing Counsel appearing for the Opp. Parties.
3. The petitioner, who was working as a job contract employee, has filed this writ petition seeking direction to the opposite parties to take steps for sanction and payment of arrear dues in respect of pay protection, i.e., from the date of regularization of his service, within a stipulated time.
4. Mr. Mohapatra, learned counsel for the petitioner contended that similar question had come up for consideration before the tribunal in O.A. No.2250(C) of 2004 and the tribunal, vide order dated 29.08.2011, holding that the order of the finance department dated 15.05.1997 is not applicable to the applicants and the cancellation of the benefit already extended to the applicants is not tenable, quashed the same, and accordingly directed the opposite parties to restore the benefits to the applicants, as was granted to them, prior

to passing of the impugned order dated 15.05.1997. The said order of the tribunal was challenged by the State before this Court in W.P.(C) No.6895 of 2013 and in turn a Division Bench of this Court, vide order dated 02.03.2016, confirmed the order passed by the tribunal. Accordingly, the benefit has been extended to the applicants in O.A. No.2250(C) of 2004 disposed of on 29.08.2011. It is further contended that in a similar matter, i.e., State of Odisha v. Padmalochan Kalia (W.P.(C) No.22327 of 2013 disposed of on 21.03.2017), State preferred SLP (C) Diary No.40571 of 2017, which was also dismissed vide order dated 19.01.2018. Therefore, it is contended that the petitioner's case is fully covered by the aforesaid orders and, thereby, he is entitled to get the pay protection in terms of the aforesaid orders.

5. Mr. M.K. Balabantaray, learned Addl. Standing Counsel looking at the orders passed by this Court as well as the apex Court, does not dispute the position.

6. In the above view of the matter and after hearing learned counsel for the parties, this writ petition stands disposed of directing the opposite parties to extend the benefit to the petitioner at par with the order passed by this Court on 02.03.2016 passed in W.P.(C) No.6895 of 2013, by which the order of the tribunal dated 29.08.2011 passed in O.A. No.2250(C) of 2004 has been confirmed and also subsequent order passed by this Court on 21.03.2017 in W.P.(C) No.22327 of 2013, which has been confirmed by the apex Court vide order dated 19.01.2018 in SLP (C) Diary No.40571 of 2017, within a period of six months from the date of production of a certified copy of this order.

(Biraja Prasanna Satapathy)
Judge

Subrat