

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 151 of 2008

Mirza Zaill Baig

....

Petitioner

Mr. R.K. Bisoi, Adv.

-Versus -

State of Odisha and others

....

Opposite Parties

Mr. H.K. Panigrahi, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

06.01.2022

Order No.
01

This matter is taken up through hybrid mode.

2. The petitioner has filed this writ petition seeking to quash the order dated 25.04.2007 under Annexure-16, by which the claim of the petitioner has been rejected in pursuance of the order dated 18.08.2006 passed in O.A. No.85 of 2005 under Annexure-5, and to issue direction to opposite party no.1 to fix his pay as Tipper Driver in the scale of pay of Rs.1350/- to Rs.2200/- w.e.f. 11.07.1994 as per Annexure-6 and sanction and disburse the arrear differential pay to him within a stipulated time.

3. Mr. R.K. Bisoi, learned counsel for the petitioner contended that the ground for rejection of the claim of the petitioner is that he has given undertaking that he would never demand the post of Tipper Driver. Subsequently, when the petitioner claiming the benefit approached the tribunal for grant of scale of pay of Tipper driver, the same has been rejected vide impugned order under Annexure-16 dated 25.04.2007.

4. Mr. H.K. Panigrahi, learned Addl. Standing Counsel contended that once the petitioner has given undertaking that he will not claim the benefit of scale of pay admissible to the post of Tipper driver and, as such, in response to the same, the benefit has not been extended to him. Thereafter, the petitioner approached the tribunal and in turn the tribunal considered the same and directed the authority to consider the grievance of the petitioner. In compliance of the same, the order impugned has been passed. Therefore, no illegality or irregularity has been committed by the authority so as to warrant interference of this Court.

5. Considering the contention raised by learned counsel for the parties and after going through the records, this Court finds that the petitioner claims that he is entitled to get the scale of pay admissible to the post of Tipper driver. But he himself gave undertaking that he will not claim the benefit admissible to the post of Tipper driver. Therefore, subsequently by approaching the tribunal he cannot claim the benefit and turn around by saying that he is entitled to scale of pay admissible to the post of Tipper driver which is not permissible.

6. In such view of the matter, this Court is of the considered view that that the order impugned dated 25.04.2007 under Annexure-16 is well justified. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

Ashok

(Dr. B.R. Sarangi)
Judge