

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 17884 of 2019

Union of India and others

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Petitioners

Mr. P.K. Parhi, ASGI

Vs.

Nanda MKumar Paniyadi

.....

Opposite Parties

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

28.07.2022

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. P.K. Parhi, learned Assistant Solicitor General of India.

3. The Union of India being the Petitioners have assailed the Order dated 01.05.2019 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 260/239/2016 by which the benefit was directed to be extended to the Opposite Party keeping in view the fact that similarly situated person had already been extended with such benefit pursuant to the direction of Central Administrative Tribunal, Patna Bench. The Tribunal accordingly hold that the Opposite Party is entitled to PB-3 (Rs.15600-39100) with GP Rs.8000/- with a minimum of Rs.30,000/- as Assistant Professor of Nursing, AIIMS, Bhubaneswar from 04.03.2013 and directed Petitioner No.2 to re-fix the pay of the Opposite Party in PB-3 with Grade Pay of Rs.8000/- with a minimum of Rs.30,000/- with effect from 04.03.2013 and draw and disburse the arrears in his favour within a period of 120 days.

4. The factual matrix of the case in brief is that an advertisement was made by the Government of India, Ministry of Health & Family Welfare for recruitment to various disciplines of six newly established All India Institute of Medical Sciences (in short AIIMS). The Opposite Party was an aspiring candidate for the post of Professor-cum-Principal, Nursing. However, in the interview, he was selected for the post of Assistant Professor, Nursing and issued with the offer of appointment vide letter dated 1.2.2013 in pursuance of which, he joined at AIIMS, Bhubaneswar on 04.03.2013. According to the stipulations made in the advertisement, the post of Assistant Professor, Nursing carries PB-3 i.e. Rs.15,600-39100/- with Grade Pay of Rs.8000/- with a minimum of Rs.30,000/-, with provision to move to PB-4 after three years, whereas, after his joining the post of Assistant Professor, Nursing, he was granted PB-3 with Grade Pay Rs.5400/-. Against that order, Opposite Party made a representation to the Director, AIIMS, Bhubaneswar requesting to fix his pay at PB-3 with Grade Pay of Rs.8000/-, but to no effect. Vide letter dated 10.04.2015, the Opposite Party was intimated that there is no such post of Assistant Professor in Nursing College and, therefore, the post of Lecturer in Nursing be considered instead of Assistant Professor and in the above backdrop, his pay was fixed in PB-3 with Grade Pay Rs.6000/- which is the Pay Scale of Lecturer. In the meantime, the Opposite Party received an information under the RTI Act that one Mr. Rathis Nair and Mr. Hansmukh Jain who had been selected as Assistant Professor in College of Nursing, AIIMS, Patna along with the Opposite Party, are being paid salary in PB-3 with Grade Pay of Rs.8000/- with a minimum of Rs.30,000/- with provision to move to PB-4 after three years with Grade Pay of

Rs.8,700/-. Based on this, the Opposite Party submitted a further representation dated 15.9.2015 enclosing thereto the information received under the RTI Act to the Director, AIIMS, Bhubaneswar with a request to fix his pay in PB-3 with Grade Pay of Rs. 8000/-. Since, there was no response, the Opposite Party moved the Tribunal in O.A. No. 260/239/2016.

5. The Tribunal after due adjudication and taking into consideration the stand taken by the Opposite Party that similarly situated person who were appointed along with Opposite Party in AIIMS, Patna namely Mr. Rathis Nair and Mr. Hansmukh Jain were paid the salary in PB-3 with Grade Pay of Rs.8000/- with a minimum of Rs.30,000/- with provision to move to PB-4 after three years with Grade Pay of Rs.8,700/-, which he received under RTI Act, directed for extension of the benefit to the Opposite Party. Therefore, no illegality or irregularity has been committed by the Tribunal, directing for extension of such benefit to the Opposite Party, calling for interference by this Court. Thus, the Tribunal in a well discussed order extended such benefit to the Opposite Party and the reasons assigned by the Tribunal is well founded, which does not require interference by this Court.

6. Thus, the Writ Petition merits no consideration and the same stands dismissed accordingly.

(DR. B.R. SARANGI)
JUDGE

Arun

(S.K. MISHRA)
JUDGE