

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.25595 of 2021

Kailash Chandra Mishra

.... ***Petitioner***
Mr. K.C. Sahu, Advocate

-versus-

State of Odisha & others

.... ***Opposite Parties***
Mr. P.C. Das, ASC

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

15.11.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Government Advocate appearing for the State-Opposite Parties.
3. It is submitted by the learned counsel for the Petitioner that the issue involved in the present case was directly and substantially involved in W.P.(C) No.16641 of 2022 (Manamohan Sahoo -v- State of Odisha and others). By a detailed judgment dated 30.09.2022 this Court has decided the issue. Accordingly, he submits that the case of the Petitioner is governed by the law laid down by this Court in Manamohan Sahoo -v- State of Odisha and others (supra).
4. Learned counsel for the Petitioner submits that vide Office Order under Annexure-11, the Opposite Party No.4 has sanctioned the 3rd RACP benefit in favour of the Petitioner with Grade Pay of Rs.5400/-. But, by way of misinterpreting the guidelines issued by

the Finance Department vide their letter No.19420 dated 01.07.2020, a decision has been taken to withdraw/revoke the order No.20938 dated 20.11.2018 issued by the Department of Agriculture & Farmers Empowerment as per office order No.12480 dated 02.07.2021 under Annexure-13. In the said order, a further direction has been issued by the Opposite Party No.1 to Opposite Party No.3 in Memo No.12481 dated 02.07.2021 wherein the Opposite Party No.3 has been instructed to take appropriate steps in the matter in accordance with the Finance Department letter dated 01.07.2020. The Opposite Party No.3 misinterpreting such direction vide letter dated 22.07.2021 under Annexure-14 has instructed all the DDOs intimating the decision of Opposite Party No.1 dated 02.07.2021 and accordingly he has also withdrawn all the consequential directions issued to the subordinates with a further instruction to all the DDOs to take necessary immediate steps for remedial action taking into consideration the withdrawal of letter dated 20.11.2018 as per letter dated 02.07.2021 of Opposite Party No.1. It is further submitted that the claim of the Petitioner is covered in view of the judgment passed by this Court in the case of Manamohan Sahoo -v- State of Odisha and others.

5. Learned Additional Government Advocate appearing for the State-Opposite Parties, on the other hand, submits that let the Petitioner approach the competent authority once again and the competent authority shall consider the case of the Petitioner in view of the law laid down in the case of Manamohan Sahoo -v- State of Odisha and others and refix the Grade Pay if the same is required in view of the judgment in the case of Manamohan Sahoo -v- State of Odisha and others.

6. Considering the submissions made by the respective parties,

the order dated 02.07.2021 under Annexure-13 and the letter dated 22.7.2021 under Annexure-14 so far as it relates to the Petitioner are hereby quashed and the matter is remitted back to Opposite Party Nos. 1 & 3 to take a fresh decision regarding sanction of Grade Pay of Rs.5400/- in lieu of 3rd RACP in favour of the Petitioner taking into account the decision of this Court in the case of Manamohan Sahoo -v- State of Odisha and others (supra) within a period of eight weeks from the date of production of certified copy of this order. The decision so taken thereof shall be communicated to the Petitioner two weeks thereafter.

7. It is further submitted by the learned counsel for the Petitioner that in an identical case involving the identical issue a writ petition bearing W.P.(C) No.5644 of 2022 was preferred against the order of the Tribunal in O.A.No.726 of 2017. A Division Bench of this Court dismissed the said writ petition vide order dated 24.04.2022. He further submits that the applicants in O.A.No.726 of 2017 have been extended the benefit claimed by them in the meantime. This fact shall also be specifically dealt by the authorities while considering the case of the Petitioner.

8. With the aforesaid observation, the writ application stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge