

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 2742 of 2009

Bhagaban Guman Singh

.....

Petitioner

Mr. H.K. Mallik,
Advocate

Vs.

State of Orissa and others

.....

Opposite parties

Mr. N.K. Praharaj,
Standing Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

24.01.2022

Order No.

01

This matter is taken up by video conferencing mode.

2. Heard Mr. H.K. Mallik, learned counsel for the petitioner and Mr. N.K. Praharaj, learned Standing Counsel for the State.

3. The petitioner has filed this writ petition seeking to quash the order dated 15.02.2002 passed by opposite party no.3 under Annexure-3, by which the claim of the petitioner has been rejected, and to issue direction to the opposite parties to allow time bound advancement scale of pay and revised scale of pay as per ORSP Rules, 1998. He further seeks direction to the opposite parties to re-fix/revise the pay, pension DCRG and all other pensionary benefits and to pay all arrear amounts in deducting the payment made within a stipulated time.

4. Mr. H.K. Mallik, learned counsel for the petitioner contended that the petitioner was continuing as a Senior Clerk in ARCs, Jagatsinghpur w.e.f. 09.06.1978 till

01.01.1996. Therefore, the petitioner is entitled to get time bound advancement scale of pay from the date of completion of 15 years of service. It is contended that though the petitioner came under the revised scale of pay with effect from 01.01.1996 in pursuance of the ORSP Rules, 1998 and his pay in the revised scale was fixed under ORSP Rules, 1998 in the scale of pay of Rs.4000-100- Rs.6000/-, but he has not been extended with the time bound advancement scale of pay admissible to him in accordance with law. It is further contended that as per Rule-8(2) of ORSP Rules, 1998 though the petitioner is entitled to get the time bound advancement scale of pay, the same has not been extended in his favour. It is further contended that after retirement on superannuation, he was given last scale of pay as Rs.4000/- to Rs.6000/- per month after revising his pay as per ORSP Rules, 1998 and last pay drawn was at Rs.4400/- and accordingly his pension and other pensionary benefits were calculated, sanctioned and paid, whereas similarly situated employees under the Department were allowed the time bound advancement scale of pay. Therefore, the petitioner has approached this Court by filing the present writ petition.

5. Mr. N.K. Praharaj, learned Standing Counsel for the State, referring to the counter affidavit, contended that the petitioner, while working as senior clerk in the scale of pay of Rs.1200-30-1560-EB-40-2040/- in the office of the ARCS, Khurda, his pay was revised under ORSP Rules, 1998 in the scale of pay of Rs.4000-100-6000/- per month and fixed at Rs.4100/- on 01.01.1996. So far as the claim with regard to grant of time bound advancement scale of pay

is concerned, the petitioner is not entitled to get the same as per Rule-8(3)(v) of ORSP Rules, 1998, which provides the Government servant in whose favour the TBA scale of pay is required to be sanctioned, should have completed 15 years of service in a particular post/grade subject to satisfactory performance and fulfillment of prescribed stipulation and conditions for promotion to the higher post. As it appears, though the petitioner has completed 15 years of service as senior clerk on 08.06.1993, his performance was not found to be satisfactory and he did not fulfill the prescribed stipulation and conditions for promotion to higher post and, therefore, did not merit consideration for time bound advancement scale of pay under ORSP Rules, 1998. Thereby, the claim of the petitioner has been rejected.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that in exercise of powers conferred by the proviso to Article 309 of the Constitution of India, Orissa Revised Scale of Pay Rules, 1998 has come into force by Finance Department notification on 03.06.1998 w.e.f. 01.01.1996. Rule-8(3)(v) of Orissa Revised Scale of Pay Rules, 1998 is extracted hereunder:-

“Rule-8(3)- Fixation of pay in the time-bound advancement scale shall be made in accordance with the provision of sub-rule (b) of rule 74 of the Orissa Service Code and such other instructions and orders in that behalf as may be issued by Finance Department from time to time:

Provided that :-

xxx

xxx

xxx

(v) sanction of time-bound advancement scale in case of class-IV employees on completion of 20 (twenty) years of service in a particular post/grade or in case of other categories of employees on completion of 15 (fifteen) years of service in a particular post/grade and 2nd stage time-bound

advancement scale in case of Drivers and Juniors Engineers on completion of 25 (twenty five) years of service in the original post/grade would be subject to satisfactory performance and fulfillment of the prescribed stipulations and conditions for promotion to the higher post.”

7. In view of the aforesaid provision, it is made clear that fixation of pay in the time-bound advancement scale shall be made in accordance with the provision of sub-rule (b) of rule 74 of the Orissa Service Code and such other instructions and orders in that behalf as may be issued by Finance Department from time to time. Accordingly, as per sub-rule (v) of Rule-8(3), which specifically provides that for sanction of time bound advancement scale of pay in case of other category employees on completion of 15 years of service in a particular post/grade are entitled to get the benefits, subject to satisfactory performance and fulfillment of the prescribed stipulations and conditions for promotion to the higher post. As has been pleaded in the counter affidavit, the performance of the petitioner was not satisfactory and, as such, he did not fulfill the prescribed stipulation. As a consequence thereof, he was not entitled to get the time bound advancement scale of pay, which was corroborated in the order impugned in Annexure-3 to the writ petition.

8. In view of the above position, this Court finds that the petitioner did not satisfy the condition stipulated for time bound advancement scale of pay and, as such, the same has not been controverted by filing rejoinder affidavit to the counter affidavit. Therefore, the pleadings made in the counter affidavit are accepted.

9. Accordingly, the writ petition merits no consideration

and the same is hereby dismissed.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

Ashok

(DR. B.R. SARANGI)
JUDGE

