

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 498 of 2009

Tankadhar Rout

.....

Petitioner

Mr. S.B. Rath, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

18.01.2022

Order No.

01

This matter is taken up through video conferencing mode.

2. The petitioner has filed this writ petition seeking direction to the opposite parties 2 and 3 to sanction and disburse the legitimate and rightful claim of the petitioner by disposing of the representation within the time bound period, i.e. to be more specific to pay the Time Bound Advancement Scale of pay with effect from 13.08.1989; sanction of increments from 2003 and onwards; and to release the salary for three months and nineteen days pertaining to 02/03, 04/03, 05/03 and 19 days for 07/03; and to send the Original and Duplicate service book of the petitioner kept for updating to the new station; and to pay the T.E. Bill; and to disburse the subsistence allowance for the month of April and May, 2006 in revised rate.

3. Learned counsel for the petitioner contended that since such benefits as claimed above has not been extended to the petitioner, the petitioner filed the present writ petition.

4. Pursuant to the notice issued to the opposite parties, the opposite parties filed counter affidavit. It has been specifically mentioned in the counter affidavit that with regard to the sanction of Time Bound Advancement Scale of pay with effect from 13.08.1989, the petitioner-

Ex-Fishery Supervisor has joined the promotional post as Fishery Supervisor on 13.08.1989. As per the Orissa Revised Scale of Pay, Rules, 1998, the Time Bound Advancement Scale of pay is to be fixed on completion of 15 years of service in a particular post without any promotion. The 15 years of service of the petitioner in the post of Fishery Supervisor is due on 14.08.2004. But he was under suspension, i.e. 30.07.2003 to 31.05.2006 and the said period was treated as such as per the Order dated 30.05.2006 by the opposite party no.2. As per Rule, the suspension period which is treated as such is the non-qualifying service and not to be taken into account for sanction of financial benefits such as increment, Time Bound Advancement Scale of Pay and pension qualifying period. Accordingly his due for T.B.A. is shifted to 22.08.2007. Orissa Revised Scale of Pay, 2008 was effected from 01.06.2006. As per the said Rule, the applicant was eligible to get the benefit of Assured Career Progression (ACP) instead of T.B.A. in three stages, 1st after completion of 15 years, 2nd after completion of 25 years and 3rd on completion of 30 years of service in one post. Soon after fixation of the pay of the applicant under ORSP Rules, 2008, proposal for grant of A.C.P. was forwarded to the Director of Fisheries, Odisha vide letter dated 25.11.2011 of opposite party no.4. After examining the matter, the opposite party no.2 found the petitioner not suitable for ACP and accordingly, communicated the decision to the opposite party no.4 in letter dated 20.06.2012. Therefore, the claim of the petitioner cannot sustain in the eye of law.

5. The counter further reveals that as per Rule-14 of the Orissa Revised Scale of Pay Rules, 2008, all State Government employees up to Group-A category can avail ACP in 3 stages, i.e. 1st after completion of 15 years, 2nd after completion of 25 years and 3rd on completion of 30 years of service in his original post or grade and such benefit of ACP will be given only after screening each and every case by a

Screening Committee to be constituted by the Department. All the norms for promotion shall also be applicable for allowing ACP in different stages. So far as non sanction of increment from 2003 and onwards, it has been clarified that the periodical increment due on 01.05.2003 raising the pay of the petitioner from Rs.3725/- to Rs. 3800/- has been sanctioned by the opposite party no.3 on 25.06.2009. The periodical increment due on 01.05.2004, 01.05.2005 and 01.05.2006 could not be sanctioned as the petitioner was under suspension from 30.07.2003 to 31.05.2006 and the said period was treated as such. The next periodical increment of the petitioner was due on 01.03.2007. The periodical increments due on 01.03.2007 and 01.03.2008 were stopped with cumulative effect. The periodical increment due on 01.03.2009 has been duly sanctioned raising his pay from Rs.7070/- to Rs. 7340/- and disbursed to the petitioner. The petitioner also challenged the order dated 30.05.2006 of the opposite party no.2 in an appeal before opposite party no.1. As per the orders of the opposite party no.1, the matter was re-enquired and final order finalizing the departmental proceeding was passed on 22.12.2012 of opposite party no.2. In the said order, one of his annual increment was stopped without cumulative effect instead of two annual increments as directed in the previous order. Necessary provision of fund has been made in the meantime for drawal of the arrear periodic incremental benefit of the petitioner. As regards release of salary of three months and 19 days, an amount of Rs.15,546/- has been drawn for the purpose and disbursed to the applicant in shape of Cheque dated 30.06.2009. So far submission of Original and Duplicate Service Books to the office of opposite party no.4, the opposite party no.3 has already transmitted the Original and Duplicate Service Books of the applicant along with revised L.P.C. to the opposite party no.4 vide letter dated 26.06.2009. In the meantime the subsistence allowance has already been sanctioned

and disbursed to the petitioner. The petitioner in the meantime retired from service with effect from 30.04.2014 and provisional pensionary benefits as well as GPF, GIS and TE bill has been sanctioned and paid to the petitioner.

6. Having heard learned counsel for the parties and after going through the record, this Court is not inclined to pass any further order, since in the meantime, the relief claimed of the petitioner has already been extended to the petitioner.

7. In view of the above, the writ petition stands disposed of.

8. 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.

Arun

(DR. B.R. SARANGI, J.)

