

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 317 of 2018

Bishnu Prasad Singh

.....

Petitioner

Mr. J.R. Kar, Advocate on behalf of

Mr. K.N. Das, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. S. Rath, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

14.09.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. J.R. Kar, learned Counsel appearing on behalf of Mr. K.N. Das, learned counsel for the Petitioner and Mr. S. Rath, learned Additional Standing Counsel for the State.

3. The Petitioner has filed this writ petition seeking direction to the opposite parties to grant grade pay attached to the post of DEO to the petitioner as per Finance Department letter dated 22.12.2016 under Annexure-4 and to pay the arrears with effect from 01.12.2016 in respect of the G.P. in the event of sanction in terms of the said letter.

4. Mr. Kar, learned counsel for the petitioner contended that since the petitioner was continuing in different Government establishments, therefore, the Finance Department letter dated 22.12.2016 on Grade Pay is applicable to him and as such, he is entitled to the relief claimed by him.

5. Mr. S. Rath, learned Additional Standing Counsel contended

that as per Rule-4 of the Odisha Group-C and Group-D Posts (Contractual Appointment) Rules, 2013, all contractual appointment were classified into two categories, namely Category I and Category II. The concurrence of Finance Department is a must for contractual appointment. The petitioner having been appointed through a service provider to work under OTDC and the government in tourism department has no role in his appointment and he is not a contractual employee as per the rules and he has been engaged on daily wage basis, for which the claim of grant of grade pay is not admissible.

6. Having heard learned counsel for the parties and after going through the record, since the petitioner was appointed by a service provider pursuant to the letter of the General Manager, OTDC, the payment is made to the man power providing agency as per Labour Department Notification. The payment is charged to the imprest fund of project work of OTDC. The petitioner having been engaged through a service provider on daily wage basis, he cannot claim for fixation of grade pay and grant of arrear salary as prayed in the writ petition. More so, the OTDC and the concerned man power providing agency, i.e. M.B. Security and Investigation Bureau, BBSR should come into picture. Therefore, the claim made by the petitioner is absolutely misconceived one. The contention made that similarly situated persons have been extended the benefit, where as the petitioner has been discriminated, that also cannot sustain in view of the fact that the similarly situated person was engaged by the department with concurrence from the Finance Department as a contractual employee as per the rules in vogue. Thereby he is entitled to get grade pay as applicable to him. In view of that, the relief sought by the petitioner is not admissible and the writ petition

merits no consideration.

7. The writ petition is accordingly dismissed.

Arun

(DR. B.R. SARANGI)
JUDGE

