

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.1418 of 2018

An application under Section 19 of the State Administrative Tribunal's Act, 1985.

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Durga Charan Sarangi **Petitioner**

-versus-

State of Odisha & Others **Opposite Parties**

For Petitioner : M/s. Mr. J.K.Mishra 2.

For Opp. Parties : M/s. N.Prusty, Standing
Counsel

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing:22.04.2022 and Date of Order:27.04.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. J.K.Mishra-2, learned counsel for the Petitioner and Mr. Prusty, learned counsel for the State-Opposite Parties.
3. The petitioner filed the present Writ Petition with the following prayer:-

“(i) To pass an appropriate order by quashing the impugned order dated 28.02.2018 vide Annexure-3.

(ii) To pass an appropriate order by the respondent No.3 to fix the corresponding scale of pay of Rs.58,600/- w.e.f. 01.01.2016 Rs.60,400/- w.e.f. 1.6.2016 and Rs.62,200/- w.e.f. 01.06.2017, with G.P of Rs.5600/- as he has completed more than 33 years of service.

(iii) To pass further order by directing to the respondent No.3 to sanction and pay the periodical increment as per due regularly.

(iv) To pass such further order / orders as deem fit and proper in the facts and circumstances of the case and allow the case with cost”.

4. It is submitted by Mr. Mishra, learned counsel for the Petitioner that vide order dated 13.07.2015 under Annexure-2, opposite party No.3 allowed Grade Pay of Rs.4,800/- in place of Rs.4,200/- in favour of the Petitioner w.e.f. 17.06.2013. In the said order, it was also indicated that the Petitioner was allowed such Grade Pay basing on the recommendation of the Screening Committee of Opposite Party No.3 vide Resolution No.21 dated 30.06.2015.

5. It is submitted that subsequently when the Petitioner made an application on 03.02.2016 for enhancing the Grade Pay from Rs.4,800/- to Rs.5,400/- relying on the Finance Department Resolution dated 5.5.2015, Opposite Party No.3 while disallowing such claim recalled the order passed on 13.07.2015 under Annexure-2 vide the impugned order dated 28.02.2018 under Annexure-3. While recalling the order dated 13.07.2015, the Petitioner was also directed to pay the excess payment receipt

towards the benefit of RACP in terms of the order passed under Annexure-2.

6. Mr. Mishra, learned counsel for the Petitioner also submitted that learned Tribunal while issuing notice of the matter vide order dated 01.06.2018 stayed the operation of the order under Annexure-3.

It is also submitted that while disallowing the claim as made in application dated 03.02.2016, Opposite Party No.3 should not have recalled the earlier order passed under Annexure-2.

7. Mr. Prusty, learned counsel appearing for the State-Opposite Parties made his submission relying on the stand taken by the Opposite Party No.3 in his counter. It is submitted that since the Petitioner was implicated in the vigilance case and remained under suspension for the period from 19.01.2008 to 13.08.2008 and the said period having not been regularized, the Petitioner is not eligible to get the benefit of RACP so allowed vide order under Annexure-2.

8. It is also submitted that since the Petitioner is implicated in the Vigilance case, Opposite Party No.3 rightly recalled the order under Annexure-2 vide order dated 28.02.2018 under Annexure-3 and no illegality has been committed by the said Opposite Parties in issuing the said order.

9. Mr. Mishra, learned counsel for the Petitioner submitted that similar issue was the subject matter in W.P.(C) No.8484 of 2022 and this Court relying on the order passed by the learned Tribunal in O.A. No.1506 of 2009 directed the Opposite Parties to sanction and disburse the

benefit as due and admissible and the same shall be subject to the result of the vigilance proceeding initiated against the Petitioner vide order dated 07.04.2022.

10. Mr. Mishra, also submitted that the Petitioner has already retired in the meantime and he is also suffering from Cancer. Because of the impugned order passed under Annexure-3, the Petitioner was not only deprived of the benefit of Grade Pay so sanctioned in his favour under Annexure-2 but also he is deprived of the benefit of increment and other service benefits.

11. Having heard learned counsel for the Parties and in view of the similar nature of order passed by this Court on 07.04.2022 in W.P.(C) No.8484 of 2022, this Court deems it proper to set aside the order dated 28.02.2018 passed by the Opposite Party No.3 under Annexure-3. While setting aside the same, this Court directs the Opposite Parties to sanction and disburse all the benefits as due and admissible in favour of the Petitioner with an observation that the same shall be subject to the outcome of the vigilance proceeding initiated against the Petitioner. It is directed that the entire exercise shall be completed by Opposite Party No.3 within a period of three months from the date of receipt of this order.

12. With the aforesaid observations and directions, the WPC(OAC) stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 27th of April, 2022/Subrat