

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC(OA) No.2533 of 2018

Sri Santosh Kumar Das

....
Mr. Nihal Rath, Advocate

Petitioner

-versus-

State of Odisha & Another

....

Opposite Parties

Mr. L. Samantaray,
Addl. Govt. Advocate

CORAM:
JUSTICE M.S. RAMAN

Order No.

ORDER
17.10.2022

- 01.** 1. The Original Application No.2533 of 2018 was filed before the State Administrative Tribunal, Bhubaneswar. After its abolition, the same has been transferred to this Court which is renumbered as WPC(OA) No.2533 of 2018.
2. The Petitioner, Assistant Engineer (Civil), though was granted Revised Assured Career Progression (RACP) after serving of 20 years is aggrieved by fixation of Pay Band at Rs.4,800/- vide order dated 7th April, 2016 issued from the Office of the Engineer-in-Chief, Water Resources, Bhubaneswar. Said office order has mentioned about decision of the Screening Committee of Office of Engineer-in-Chief, Water Resources regarding the eligibility of the Petitioner and allowed the second financial up-gradation under Revised Assured Progression Scheme and Pay Band-2, in the scale of pay Rs.9,300/- - Rs.34,800/- + Enhanced Grade Pay of Rs.4,800/- on completion of 20 years of qualifying services in the

entry grade with effect from 24th January, 2013 in view of Rule 13 of Odisha Revised Scale of Pay Rules, 2008.

3. The Petitioner is aggrieved by such alleged erroneous fixation of Pay Band and the counsel for the Petitioner submitted that instead of fixing Pay Band-2 at Rs.5,400/- , the authority has fixed it at Rs.4,800/- which is incompatible. To buttress such a contention, the counsel for the Petitioner relied on a decision of the Odisha Administrative Tribunal being Ashok Kumar Palo vs. State of Odisha & Others in O.A. No. 2237 of 2014. *Vide* order dated 3rd April, 2017, the said Tribunal has extended the benefit on the identical prayer as is made in the present writ petition. It is submitted, that the petitioner, being similarly circumstanced employee, is required to be extended the similar benefit. The operative part of the said order of the Tribunal reads as follows:-

“Consequently, the order fixing the Grade Pay of Rs.5,400/- be restored, and consequential action be taken within a period of three months from the date of receipt of copy of this order.”

4. Counsel for the Petitioner further submitted that this Court in *State of Odisha and another Vrs. Bihari Lal and others, W.P.(C) No.2831 of 2016* disposed of on 27.06.2016 accepted the fixation of Pay Band and Grade Pay at Rs.5,400/-. In the case of *Bipin Bihari Nayak Vrs. State of Odisha, W.P.(C) No.36653 of 2021*, disposed of on 23.11.2021 this Court following aforesaid case observed as follows:

“xxx

3. *The petitioner has filed this writ petition seeking direction to opposite party no.1 to take effective steps with extend to financial upgradation under 2nd and 3rd RACP with grade pay of Rs.5400/- and Rs.6600/- on the basis of the judgment dated 27.06.2016 passed by this Court in W.P.(C) NO.2831 of 2016 (State of Odisha v. Biharilal Barik) which has been confirmed by the apex Court in Diary No.(S) 20358 of 2017 within a stipulated period.*

4. *In course of hearing, learned counsel for the petitioner states that highlighting the grievances, the petitioner has made representation to opposite party no.1 vide Annexure-5 and the same may be directed to be disposed of keeping in view the judgment in State of Odisha and another v. Bihari Lal and others (W.P.(C) No.2831 of 2016 disposed of on 27.06.2006) which has been confirmed by the apex Court in Diary No.(S) 20358 of 2017 within a stipulated time.*

5. *Considering the limited grievance of the petitioner, this Court without expressing any opinion on the merits of the case, disposes of the writ petition directing opposite party No.1 to consider the representation filed by the petitioner vide Annexure-5 and pass appropriate order in accordance with law keeping in view the judgment in Bihari Lal (supra) within a period of three months from the date of production of certified copy of this order. ”*

5. Mr. L. Samantaray, Addl. Govt. Advocate submitted that the appropriate course to resolve the dispute would be to relegate the Petitioner to approach the Opposite Party No.1-Secretary to Govt., Water Resources Department who may be directed to decide the grievance of the petitioner.

6. In view of the aforesaid submission and taking into consideration the decisions of this Court, interest of justice would be best met, in directing the Petitioner to approach with representation within a period of 30 days to the Opposite Party No.1-Secretary to Govt. Water Resources, Department along with certified copy of this order and cite the relevant decisions. It is

directed that the Opposite Party No. 1 shall decide the grievance of the Petitioner within a period of two months thereafter and communicate reasoned order to the Petitioner.

7. With the aforesaid observation and direction, the writ petition stands disposed of.

(M.S. Raman)
Judge

Aks

