

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No.2575 of 2016

Nityananda Mantri

.... ***Petitioner***
Ms. G.R. Sethi, Advocate

-versus-

State of Odisha and another

.... ***Opposite Parties***
Mr. N.K. Praharaj, State Counsel

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

07.07.2022

Order No.

05. 1. Heard learned counsel for the Petitioner as well as learned counsel for the State.
2. The Original Application has been filed initially before the State Administrative Tribunal, Cuttack Bench, Cuttack, bearing O.A. No.2575 (C) of 2016 with the following prayer:
- “In view of the facts stated above in Para-6, the applicant prays for the following relief(s):-
- i) To direct the respondents to promote the applicant retrospectively to the rank of S.I. of Police from the date when the juniors have got promotion w.e.f. 18.7.2011.
 - ii) To direct the respondents to grant all financial and consequential benefits from the date of promotion.
 - iii) And pass such other order/orders as may be deemed fit and proper for the interest of justice.
3. It is submitted by learned counsel for the Petitioner that initially the Petitioner was working as A.S.I. in the police department. While working as such, he was placed under suspension pending initiation of disciplinary proceeding. However, during such

period, the DPC was held and the case of the Petitioner could not be considered for promotion to the next higher post, i.e. S.I. of police. Such facts are evident from a memo dated 30.5.2012 under Annexure-2. It is submitted that Petitioner retired from service on attaining the age of superannuation on 30.11.2012. Thereafter, the disciplinary proceeding was concluded and the Petitioner was exonerated of all charges with a finding that the period of suspension be treated as duty. After exoneration from the charges in the disciplinary proceeding, Petitioner approached the Authority by filing a representation for considering his grievance. The Competent Authority after considering the said representation rejected the prayer of the Petitioner. Thereafter the present writ petition has been filed challenging the rejection of the representation of the Petitioner.

4. Learned counsel for the Petitioner submits that Petitioner is aged about 70 years now and he is not getting the financial benefits, which he is lawfully entitled to. Furthermore, the enhanced financial benefit has not been paid to him. In such view of the matter, learned counsel for the Petitioner submits that a direction may be issued to the Authority to consider the case of the Petitioner for retrospective promotion and for extending all financial benefits attached to the next higher post.

5. Learned counsel for the State on the other hand by referring to the letter of the A.I.G. of Police (Personnel) Odisha, Cuttack addressed to the Principal Secretary to Govt. of Odisha dated 04.06.2016 under Annexure-A/2 of the counter affidavit submits that a bare reading of the said letter, it appears that the Government had probably taken a decision to grant retrospective promotion to Petitioner to the post of S.I. of Police notionally after his retirement

from the date his juniors were allowed promotion to the rank of Sub-Inspector of Police needs re-examination. He further submits that the same has been objected to by the A.I.G. of Police (Personnel) Odisha, Cuttack in his letter No.24764/Board/Y-10-12, dated 4.6.2016. It is submitted by learned counsel for the Opposite Parties that since the matter is subjudice before the Secretary, Home Department, Odisha, Opposite Party No.1, he may be directed to finalise the matter and take a decision in the matter in accordance with law.

6. Learned counsel for the State on the other hand submits that he does not have any objection if any such direction is given, which may be considered by taking into consideration the fact that Petitioner is aged about 70 years. Further a prayer is made to direct the Opposite Party No.1 to take a decision on the letter of the A.I.G. of Police (Personnel) as referred to hereinabove within a stipulated period of time and in the event the Government sticks to the earlier decision, the benefits that would have accrued to the Petitioner be calculated and paid to him within a stipulated period of time.

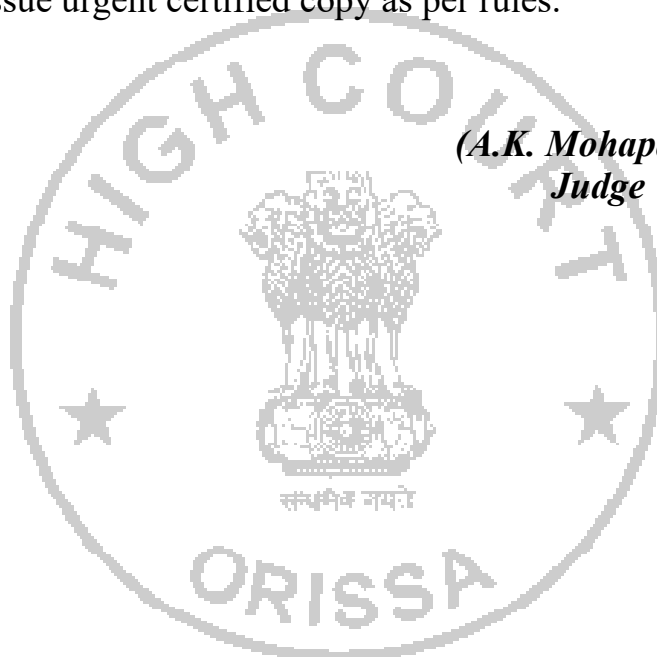
7. Having heard learned counsel for the parties and after going through the pleadings of both the sides and considering the facts and circumstances of the present case, this Court is of the considered view that the matter needs to be attended to expeditiously by the Opposite Party No.1 and further if a decision is taken to extend the benefits of retrospective promotion from the date of his juniors were given promotions, the same shall be considered taking into account the objection raised by the A.I.G. of Police (Personnel) and a final decision be taken in the matter within a period of two months. Opposite Party No.1 is further directed to consider the case of the

Petitioner in accordance with law and in the event the earlier decision taken in favour of the Petitioner by the Govt. stands, then necessary consequential benefits along with retrospective promotion be given to the Petitioner within a period of two months thereafter. It is open for the Petitioner to approach the Opposite Party No.1 along with certified copy of this order and any other documents, circulars, rules in support of his claim.

8. With the above direction, the writ petition stand disposed of.

9. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge



U.K.Sahoo