

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.3033 of 2016

Bidyut Prava Devi

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
17.08.2022**

Order No

02.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. Panda, learned counsel for the Petitioner and Mr. YSP Babu, learned A.G.A appearing for the state Opp. Parties.

3. The Petitioner has filed the present writ petition challenging the order dtd.11.08.2016 under Annexure-8, wherein her prayer to allow her grade pay of Rs.2,400/- (Rs. Two Thousand Four Hundred) i.e. grade pay of promotional post from Senior Grade Diarist to Sr. Grade Despatcher has been rejected only the ground that the Finance Dept. have been agreed to allow her the same benefit.

4. It is submitted that the Petitioner while continuing as Jr. Grade Diarist-cum-Jr. Grade Despatcher, he was promoted to the post of Sr. Grade Typist and Sr. Grade Despatcher and accordingly she

became entitled to get benefit of first RACP with Grade Pay of Rs. 2,400/- (Rs.Two Thousand Four Hundred).

5. A counter affidavit has been filed by opp. party Nos. 1 and 3 as well as Opp. party No.2 separately. In both the counters it has been stated that the promotion of Jr. Grade recorder to Sr. Grade Diarist-cum- Sr. Grade Despatcher in a conventional package without any codified rule. It is also indicated in the counter that as per conventional package the post of Sr. Grade Diarist was treated as the next promotional post of Jr. Grade recorder and the post of Sr. Grade Diarist was filled up by way of promotion.

6. Mr. Panda, learned counsel for the Petitioner also brought to the notice of this Court the stand taken by O.P. Nos. 1 and 3 in Para-5(C) of the counter:-

“Reply of G.A. Department that there is no cadre Rule/Recruitment in respect of post of Diarist/Recorded of G.A. Department.

That the applicant also prayed for allowing her Grade of Rs.2400/- i.e. Grade Pay of her promotional post of Senior Grade Diarist –cum- Senior Grade Despatcher in the similar manner as allowed by G.A. Department in favour of Smt. Trupti Das, Senior Grade Diarist of G.A. Department in her aforesaid representation dated 14.03.2016 addressed to Manager, SGH –cum- Deputy Secretary to Government, the applicant annexed the copies of the pay fixation orders Diarists of Transport & Commerce (Transport) Department and Revenue & D.M. Department wherein the Diarists of the aforesaid two Departments were allowed Grade Pay of their promotional posts under RACOs in spite of having no cadre rule (Recruitment Rule) in respect of posts of Diarists/Recorders. The applicant also prayed for allowing her Grade Pay of her Promotion Post under 1st RACP in

the very similar manner as allowed to Receptionists/Store Keepers/Bill Assistant of State Guest House, who had been allowed Grade Pay and Pay Bank of their promotional posts under RACPs in spite of having no cadre Rules/Recruitment rules in respect of the post of Receptionists /Store Keeper/Bill Assistant.

That it is a fact that some categories of employees of State Guest House, have been allowed scale of pay and grade pay of their promotional posts in terms of Finance Department Resolution No.3560/F dtd.06.02.2013. It is worth to mention here that there was no mentioned about cadre rule/recruitment rule for sanction of RACP in the Finance Department Resolution No.3560/F dtd.06.02.2013. The Receptionist, Store Keepers and Bill Assistants of State Guest House were allowed grade pay of their next promotional post (as per conventional practice) under RACP in terms of Finance Department Resolution No. 3560/F dtd.06.02.2013 as recommended by Departmental Screening Committee of Home (SGH) Department in its proceeding of meeting held on 26.10.2013. Subsequently Finance Department in its Memo No. 1738 dated 20.01.2014, clarified that the posts in respect of which there is no Cadre Rule (Recruitment Rule) are not eligible for availing Grade Pay of promotional post under RACP.

That the file was referred to Finance Department with all relevant records with regard to fixation of pay of Smt. Trupti Das, Sr. Grade Diarist –cum- Sr. Grade Despatcher of G.A. Department as sought for by Finance Department.

The Finance Department observed that sanction of promotional Grade pay of Rs.4200/- in favour of Smt. Trupti Das Sr. Grade Diarist of G. A. Department was erroneous one vis-à-vis extant rules on RACP and did not agree for allowing scale of pay of the promotional post of Sr. Grade Diarist –cum- Sr. Grade Despatcher in favour of the applicant on the ground on non-existence of Cadre Rule/Recruitment Rule in respect of the post of

Jr. Grade Recorder. The copy of the observation of Finance Department is annexed herewith as Annexure-D.”

7. In that view of the matter and taking into account the stand taken in the counter affidavit and the said order passed in counter hereby quashed. While quashing the same, this court directs the Opp. Party to extend the benefit of the Grade Pay of Rs. 2,400/- (Rs. Two Thousands Four Hundred) in favour of the petitioner from the date of her entitlement. The arrear as due and admissible be also released in favour of the petitioner on such sanction of the Grade Pay. This Court directs Opp. party No.3 to pass appropriate order extending the benefit as directed by this court within period of three months from the date of receipt of this order.

8. The writ petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha