

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 2868 of 2016

Ramesh Chandra Tripathy

.....

Petitioner

Mr. K.C. Rajguru, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. S. Rath, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

25.08.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Mr. K.C. Rajguru, learned counsel for the petitioner and Mr. S. Rath, learned Additional Standing Counsel appearing for the State Opposite Parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 21.04.2016 under Annexure-7, by which his claim for up-gradation under RACPS has been rejected on the ground that he has foregone his promotion from the date of entitlement.

4. Mr. K.C. Rajguru, learned counsel for the petitioner contended that the reasons assigned in the order impugned cannot sustain in the eye of law and, as such, the petitioner has got ACP and thereafter got promotion. Therefore, he seeks up-gradation of his post under the RACP scheme. But instead of extending the same, the authority has rejected the claim of the petitioner. Therefore, he has approached this Court by filing the present writ petition.

5. Mr. S. Rath, learned Additional Standing Counsel appearing for the State Opposite Parties contended that the petitioner has already got ACP after getting promotion and, as such, his scale of pay has been fixed after getting promotion. Therefore, subsequently he is not entitled to RACP, in view of the judgment of the apex

Court in the case of *Union of India v. Manju Arora*, 2022 (I) OLR (SC) 697.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner has forgone his promotion as per the G.A. Department Memorandum dated 20.08.1999, which was accepted vide office order dated 23.02.2011. More so, as per point no.16 of Finance Department resolution dated 06.02.2013, if a regular promotion in due course is refused by the employee before becoming entitled to a financial up-gradation, then there shall be no financial up-gradation under RACPS as the employee has not been stagnated due to lack of promotional benefit. In this case, the petitioner has forgone his promotion and, therefore, subsequently he cannot ask for financial up-gradation under RACP scheme, because the benefit is only available to those who are facing stagnation in the promotion. As such, in view of the judgment of the apex Court in the case of *Union of India v. Manju Arora*, 2022 (I) OLR (SC) 697, the petitioner is not entitled to get such benefit.

7. In view of the above position, the writ petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

Ashok