

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.C.(TAC) No.39 of 2016**

**Narendra Kumar Pratap**

....

**Petitioner**

*-versus-*

**State of Odisha & Others**

....

**Opposite Parties**

**COROM:**

**JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER**

**05.08.2022**

**Order No**

**02. 1.** This matter is taken up through Hybrid Mode.

**2.** Heard Mr. P.C. Acharya, learned counsel for the Petitioner and Mr. N. Prusty, learned Standing Counsel for the State.

**3.** The present Writ Petition has been filed by the Petitioner with the following prayer:-

*“The petitioner therefore prays that your Lordships may be graciously pleased to admit this writ application, call for the records from the opp. parties, issue notice to the opp. parties and after hearing the parties allow the same with cost and issue a writ/ writs in the nature of Mandamus / Certiorari or any other further writ/writs, direction/directions quashing Annexure-4 and further direction be given to the opp. parties to approve and sanction T.G. scale of pay to the petitioner from 1.6.1983 or pass any other order as this Hon’ble Court deem fit and proper*

*And for this act of kindness the petitioner shall as in duty bound ever pray”.*

4. Even though notice of the writ petition was issued by this Court originally on 01.05.2007, but no counter affidavit has been filed. The matter was transferred to the learned Tribunal by this Court and subsequently after abolition of the Tribunal, the matter has again come up before this Court. In spite of the fact that the matter is pending since last 21 years, no counter affidavit has been filed by the State-Opposite Parties.

5. It is submitted that the petitioner while continuing as against a Trained Intermediate Post he was posted as against a Trained Graduate post on his acquisition the B.Ed. qualification on 05.06.1982. The petitioner was posted as against a Trained Graduate Teacher by the then Managing Committee in Proceeding dated 26.07.1991.

6. It is submitted that subsequently the school in question was taken over and the petitioner was allowed the T.G. scale vide office order dated 08.10.2005.

7. It is submitted that in view of the decision of this Court rendered in the case of **Madhab Chandra Podha vs. State of Odisha**, in OJC No.1486 of 1991 decided on 23.04.1992, the Petitioner is entitled to get benefit of the Trained Graduate scale from the date he acquired the B.Ed. qualification i.e. 05.06.1982.

8. Accordingly, it is submitted that necessary direction be issued to extend the said benefit from the date of acquisition of Trained Graduate Qualification i.e. on 05.06.1982. Even though no counter has been filed by the State-Opposite Parties denying the claim as made in the writ petition, but Mr. Prustry, learned Standing Counsel for

the State submitted that the petitioner since was continuing as an against trained Matric post, he is not entitled to get the said benefit. But Mr. Prusty failed to satisfy this Court with regard to the decision passed in the case of ***Madhab Chandra Podha vs. State of Odisha.***

**8.** This Court after going through the materials available on record finds that even though the petitioner acquired the B.Ed. qualification on 5.6.1982 but vide Annexure-3 it is evident that the petitioner was appointed as against a Trained Graduate post on 26.07.1991. Therefore, the claim of the petitioner to get the benefit of TGT scale of pay from 01.06.1983 cannot be considered.

**10.** This Court following the order passed by this Court in the aforementioned case of ***Madhab Chandra Podha*** direct the opposite parties to extend the benefit of T.G scale in favour of the petitioner from 26.07.1991 on notional basis. This Court accordingly directs the Opposite Parties to fix the scale of pay of the petitioner w.e.f. 26.07.1991 notionally and revised the pension accordingly. The arrear entitlement towards pension shall be calculated and disbursed within a period of three months from the date of receipt of this order.

**11.** Accordingly, the Writ Petition is disposed of.

**(Biraja Prasanna Satapathy)**  
**Judge**