

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No.190 of 2015

In the matter of an application under Section 19 of the
Administrative Tribunal's Act, 1985.

.....

Sanjay Kumar Mallick

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

For Petitioner : M/s. S.N. Patnaik and U. Patnaik

For Opp. Parties : Mr. N.K. Praharaj
Standing Counsel
(for Respondent Nos.1 & 2)
Mr. J.N. Jena, Advocate
(for Respondent No.3)

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 06.05.2022 and Date of Order: 11.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. S.N. Pattnaik, learned counsel appearing for the
Petitioner, Mr. N.K. Praharaj, learned Standing Counsel appearing

for the Opp. Party Nos.1 &2 and Mr. J.N. Jena, learned counsel appearing for Opp. Party No.3.

3. The present writ Petition has been filed with the following prayer:-

In view of the facts mentioned in paragraph 6 above the applicants pray for the following relief (vies):

“i) The Hon’ble Tribunal may graciously be pleased to pass appropriate direction to the Director of Mines, Odisha, Bhubaneswar to release salary of the Applicant against the post of the Senior Draughtsman along with arrears from March, 2013 to onwards of the applicant and other service benefits.

ii) And any other relief/relieves which are deemed fit and proper may be passed in favour of the applicant.”

4. It is submitted that the Petitioner while working as a Draughtsman in terms of office order dtd.24.05.1980, he was given adhoc promotion to the post of Senior Draughtsman vide office order No.34360 dtd.28.12.1993 in the DPC held on 14.12.1993.

5. It is submitted that in terms of the said order the Petitioner was not only allowed the scale of pay prescribed for the post of Senior Draughtsman, but also he was allowed to draw the said scale of pay till January, 2013.

6. But all and sudden, when the scale of pay applicable to the post of Senior Draughtsman was not released in favour of the Petitioner beyond January, 2013 and he was allowed the scale of pay applicable to the post of Draughtsman, the Petitioner moved the Opp. Party No.1 on 14.07.2014 vide Annexure-A/12 with a prayer to allow the scale of pay applicable to the post of Senior Draughtsman.

7. It is submitted that in spite of making the application dtd.14.07.2014 before O.P. No.1, when no action was taken, the present writ Petition was filed. It is further submitted that during pendency of the present writ Petition, the Petitioner also retired from his service, but the claim so raised by the Petitioner in his application dtd.14.07.2014 was never considered.

8. Mr. Praharaj, learned counsel appearing for the O.P Nos.1 and 2 on the other hand submitted that adhoc promotion of the Petitioner should not have been extended after 28.12.1993 and the Petitioner is fortunate enough to continue on such adhoc promotion for around 20 years. It is accordingly submitted that Petitioner is not entitled to get the relief.

9. Heard learned counsel for the Parties. It is not disputed that while the Petitioner was continuing as a Draughtsman, he was promoted to the post of Senior Draughtsman vide order dtd.28.12.1993, though on adhoc basis.

10. It is also not disputed that on such adhoc promotion as per office order No. 34360 dtd.28.12.1993, the Petitioner was allowed to continue in the said promotional post of Senior Draughtsman and released with the salary component up to January, 2014. Therefore, without issuing a show cause to the Petitioner, the scale of pay meant for the Post of Senior Draughtsman should not have been withdrawn by the O.P. Nos.1 & 2.

11. The prayer made by the Petitioner to extend the scale of pay beyond January, 2013 was also never considered by the Opp. Parties till his retirement. This Court accordingly observes that if the Petitioner makes a fresh representation before O.P. No.1 ventilating

his grievance within a period of 3 weeks hence, O.P. No.1 shall take a lawful decision of the same within a period of 3 months thereafter.

12. It is further observed that while taking such a decision, O.P. No.1 shall take into consideration the continuance of the Petitioner as a Senior Draughtsman in terms of an office order passed on 28.12.1993 and the observation made by this Court hereinabove.

13. It is directed that Opp. Party No.1 shall take such a decision within a period of 3 months from the date of receipt of the representation. It is also observed that if the decision so taken by the Opp. Party No.1 goes in favour of the Petitioner, the financial benefits as due and admissible be disbursed in favour of the Petitioner within a further period of 3 months.

14. With the aforesaid observation and direction, the writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 11th of May, 2022/Sneha