

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.1070 of 2014

Ajit Kumar Mishra

....

Petitioner

Mr. P.C. Acharya, Advocate

-versus-

State of Odisha and Others

....

Opposite Parties

Mr. B. Singh, Standing Counsel, S&ME Department

CORAM:

SHRI JUSTICE B. P. ROUTRAY

ORDER

8.9.2022

Order No.

- 02.
1. The matter is taken up through hybrid mode.
 2. Heard Mr. P.C. Acharya, learned counsel for the Petitioner and Mr. B. Singh, learned Standing Counsel for School and Mass Education Department for State – Opposite Parties.
 3. The case of the Petitioner is that he was appointed as an Assistant Teacher with effect from 25th August, 1981 in Khajuri Sagar U.P. School, Karanjia in the District of Mayurbhanj and upon successful acquisition of training qualification he was allowed trained matric scale of pay on 29th June, 1991.
 4. Upon coming into force of ORSP Rules, 1998 and the relevant time-bound advanced scale of pay, the applicant claimed TBA scale of pay from 25th August, 1996, i.e. upon completion of 15 years from the date of his initial appointment in the post. But the government authorities rejected the claim of the Petitioner under Annexure-8 and

11 by granting him said scale of pay from 29th June, 2006 on the ground that in the meantime the applicant was granted higher scale of pay from 29th June, 1991 on acquisition of training qualification and therefore 15 years service is to be counted from the date he was granted higher pay and not from the initial joining date.

5. Mr. Singh, learned Standing Counsel submits on contrary that since the subsequent grant of higher pay from the date of acquisition of higher qualification by the Petitioner is not in dispute, further higher pay in the time bound advancement scale should have been calculated from such date when he was granted the higher pay.

6. Admittedly, the initial appointment of the Petitioner from 1981 in the post as Assistant Teacher till 1996 is not disputed. This court in the case of **Batakrishna Sahu** (OJC No.115 of 1992, disposed of on 5th May, 1994) has observed that, the Petitioner having completed 15 years of service in the same post, he is entitled to the benefit of advancement in the pay scale.

7. Relying on the case of Batakrishna Sahu (supra) and other cases, this court again in the case of **Bairagi Charan Sahoo v. State of Orissa and Others** (W.P.(C) No.6044 of 2012, disposed of on 17th February, 2021), where the concerned Petitioner being a Hindi Teacher was denied the TBA scale of pay on the ground of acquisition of higher qualification of 'Ratna', has approached this court, and this court held as follows:-

“11. Taking into consideration the principle of law, as discussed above, and applying the same to the present context, this Court is of the considered view that though the

petitioner joined as Hindi Teacher on 02.07.1982 with a qualification of 13 Matric (Kovid) and subsequently he acquired 'Ratna' qualification on 25.10.1996 and HTTC, Hindi Training qualification on 29.12.1999 and was allowed the Hindi trained scale of pay of Rs.4500-7000/- w.e.f. 29.12.1999, that itself cannot disentitle him to get the time bound advancement scale of pay for continuous holding the "post" or "grade" for 15 years. Thus, drawal of higher scale of pay on account of acquisition of 'Ratna' qualification by the petitioner being immaterial, he is eligible to enjoy the benefit of time bound advancement scale of pay on completion of 15 years for holding of Hindi teacher "post" or "grade" w.e.f. 02.07.1982 in accordance with Finance Department Memorandum dated 29.12.1987, which fact has been clarified by the Government on 20.06.1991, as has been dealt with in the judgment passed by this Court in Balabhadra Sarangi mentioned supra. In the meantime, though the petitioner has retired from service on attaining the age of superannuation, but that ipso facto cannot disentitle him to get the benefit, as claimed in the writ petition.

12. In view of the facts and circumstances as well as the law, as discussed above, this Court is of the considered view that the petitioner is entitled to get the time bound advancement scale of pay on completion of 15 years of service from the date of his initial appointment, i.e., 02.07.1982. Therefore, this Court directs the opposite

parties to calculate the differential arrear salary and pay the same to the petitioner forthwith preferably by 31st May, 2021, failing which it will carry an interest @ 9% per annum.”

8. In the instant case, as stated earlier, the continuance of the Petitioner in his initial post of Assistant Teacher is not disturbed upon acquisition of training qualification and grant of consequential higher scale of pay. Therefore in view of the principles decided in the cases cited above, the Petitioner herein is found entitled for TBA scale of pay by counting 15 years of his service from the date of his initial appointment. In other words, he is entitled to get such TBA scale of pay applicable to him with effect from 25th August, 1996. Resultantly, the impugned orders under Annexure-8 and 11 are set aside.

9. At this stage Mr. Acharya, learned counsel for the Petitioner submits that in the meantime the Petitioner has retired on superannuation in the year 2019. The Opposite Parties are therefore directed to grant all consequential benefits upon fixation of such scale of pay with effect from 25th August, 1996 within six months from the date of receipt of certified copy of this order.

10. With aforesaid observations and directions, the writ petition is disposed of.

11. An urgent certified copy of this order be issued as per rules.

(B.P. Routray)
Judge