IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C. (OAC) No.4009 of 2016

Gitarani Behera .... ***Petitioner***
Mr. N.R. Tripathy, Advocate

-versus-

State of Odisha and Others .... ***Opposite Parties***
Mr. M.K. Khuntia, AGA

CORAM:
JUSTICE M.S. RAMAN

ORDER

Order No. **16.08.2022**

01. 1. This matter is taken up through virtual/physical mode.

2. The Original Application No.4009 of 2016 (C) was filed before the State Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OAC) No.4009 of 2016.

3. Heard learned counsel for the petitioner and learned Additional Government Advocate for the State.

4. The petitioner has come up in the Writ Petition challenging the order No.18448/H dated 01.09.2016 of Government of Odisha in Health and Family Welfare Department vide Annexure-6, whereby it was directed to the authority concerned to recover the excess payment made to the petitioner in Revised Assured Career Progression Scheme (RACPS) from 01.01.2013 to 30.06.2015. It is alleged that such recovery has been sought to be made without granting opportunity of hearing to the employees concerned.

5. Learned counsel for the petitioner submitted that in identical case this Court has passed an order dated 11.08.2022

bearing WPC(OAC) No.3289 of 2016 in the case of ***Baikuntha Senapati Vs. State of Odisha and Others.*** Paragraphs 4 & 5 of said order is extracted herein below for ready reference:

xxx xxx xxxx xxxx

> "4. Learned Counsel for the Petitioner contended that the claim of the petitioner is covered by the judgment of the apex Court in the case of ***State of Punjab and Others V Rafiq Masih (White Washer)***, AIR 2015 SC 696 and as such, the Opposite Parties may be directed to consider the claim of the Petitioner in terms of the ratio decided in the case of ***State of Punjab and Others v Rafiq Masih (White Washer),*** AIR 2015 SC 696.
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> 5. In view of the above, the Writ Petition stands disposed of directing the Opposite Parties to consider the case of the Petitioner in terms of the ratio decided in the case of ***State of Punjab and Others v Rafiq Masih (White Washer),*** AIR 2015 SC 696 and take a decision within a period of three months from the date of communication of the order."

6. Mr. Manoj Kumar Khuntia, learned Additional Government Advocate has no objection.

7. In view of such conceding position, the present Writ Petition is disposed of in the light of the decision as cited at the bar.

Issue urgent certified copy as per rules.

(M.S. Raman)
Judge

Jyostna