

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.4731 of 2015

Dr. Jitendra Narayan Moharana

Petitioner

-versus-

State of Odisha & Ors.

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

13.07.2022

Order No

01.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. B.B. Swain, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned standing counsel appearing for the State-Opp. Parties.

3. The Petitioner is aggrieved by the Order dtd.18.12.2014 passed by the Govt.-O.P. No.1 under Annexure-7. It is submitted that vide order dtd.18.11.2005 under Annexure-1 the Petitioner was appointed as Junior Veterinary Officer as against the vacant post on a probation for a period of 2 (two) years. In the said order the name of the Petitioner is reflected at Sl. No. 44.

4. It is submitted that pursuant to the said order, the Petitioner joined in service. It is further submitted that while so continuing vide notification dtd.06.02.2008 under Annexure-3, the Petitioner

was regularized as Junior Veterinary Officer after probation of two (2) years in the scale of pay of Rs.5,500-175-9,000/-.

5. It is also submitted that in the order issued on 22.01.2008 under Annexure-2, it was decided to include two (2) years probation period of Junior Veterinary Officer towards service benefits including determination of qualifying service for retirement benefits. But it is submitted that even though vide order dtd.03.12.2007 under Annexure-3, the Petitioner along with others were promoted to the post of VAS/AVAS in OVS Group-B. It is submitted that vide order dtd.31.12.2008 the said post was upgraded to the post of Veterinary Officer carrying the scale of pay Rs.5,500-175-9,000/- to Rs.6,500/- -200-Rs.10,500/- under Annexure-4.

6. It is also submitted that since the Petitioner was appointed prior to 01.01.2006 and he was promoted to the post of Veterinary Officer, the pay of the Petitioner was fixed at Rs.12,090/- with grade pay of Rs.4,600/- under ORSP rules, 2008. But it is submitted that while the matter stood thus vide order dtd.05.07.2014 under Annexure-5, Govt.-O.P. No.1 when directed the Director to refix the pay of one Dhirendra Kumar Behera along with others and Director issued the impugned order on 18.12.2014 under Annexure-7 by directing all Chief District Veterinary Officer to review the pay fixation of similar cases and directed for recovery of the excess amount, the matter was challenged by the Petitioner in the present writ Petition.

7. It is submitted that this Court while issuing notice of the matter vide order dtd.22.04.2015 stayed the order of recovery as indicated in Order dtd.18.12.2014 under Annexure-7. It is also submitted that

order under Annexure-7 was challenged by other affected persons as like the Petitioner before the learned Tribunal in O.A. No.2913 of 2015. Learned Tribunal vide order dtd.28.01.2018 was pleased to allow the said application by quashing the order dtd.18.12.2014 and with a direction to the Opp. Parties not to refix the pay of the Petitioner therein and not to recover any amount.

8. It is also submitted that similar claim of one Dr. Rabinarayan Sahoo passed in O.A. No.3157(C) of 2013 was complied with by the Opp. Parties by fixing his pay in the pay scale of Rs.9,300/-- Rs.34,800/- with grade pay of Rs.4,600/-.

9. Mr. Swain accordingly submitted that in view of the said order passed by the learned Tribunal in O.A. No.2913 of 2015 and the compliance of the order passed in O.A. No.3157(C) of 2013, the claim of the Petitioner is also squarely covered by the said decision of the learned Tribunal and the Petitioner is also entitled to get similar benefit.

10. Though Mr. Balabantaray, learned Standing Counsel made his submission basing on the stand taken in the counter affidavit, but he did not dispute that similar order passed on 18.12.2014 under Annexure-7 has been quashed by the learned Tribunal in the above mentioned O.A. No.2913 of 2015. He also did not dispute the extension of the benefit in favour of one Dr. Rabinarayan Sahoo in terms of the order passed in O.A. No.3157(C) of 2013. The orders passed in O.A. No.2913 of 2015 as well as the order passed in O.A. No.3157(C) of 2013 with its compliance were all enclosed to the Rejoinder affidavit vide Annexure-8 & 9 to the writ Petition.

11. Heard learned counsel for the Parties. In view of the fact that similar issue has already been decided by the learned Tribunal in O.A. No.2913 of 2015, this Court is inclined to quash the order dtd.18.12.2014 under Annexure-7, so far as it relates to the Petitioner. While quashing the said order, this Court directs Opp. Parties not to interfere with the pay fixation of the Petitioner and not to recover any amount from the salary of the Petitioner basing on the said order.

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

(Biraja Prasanna Satapathy)
Judge

Sneha

