

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.915 of 2012

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

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Dr. Narayan Padhy

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner : M/s. S. Ojha, Advocate on
behalf of Mr. S.K. Nayak

For Opp. Parties : Standing Counsel
Mr. N.K. Praharaj

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 12.04.2022 and Date of Order: 20.04.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. S. Ojha, learned counsel on behalf of Mr. S.K. Nayak, learned counsel appearing for the Petitioner and Mr. N.K. Praharaj, learned Standing Counsel appearing for the State-Opp. Parties.
3. The Petitioner has filed the present Writ Petition with a prayer to declare Annexure-A/7 as illegal and for a direction to the Opp. Parties to extend the benefit of pay Revision as per 6th C.P.C recommendation notified on 28.1.2010 in the pay band Rs.37,400/-Rs.67,000/-

with Grade Pay of Rs.10,000/- w.e.f 1.1.2006 and with other reliefs.

4. It is submitted by Mr. Ojha, learned counsel for the Petitioner that the Petitioner was admittedly appointed as a Lecture in Education in Govt. Training College, Bolangir on 9.11.1974. It is also submitted that the petitioner while so continuing was allowed to discharge his duty as Principal In-charge w.e.f 26.10.1997. It is further submitted by Mr. Ojha, learned counsel for the Petitioner that while continuing as Principal In-charge, Govt in the Deptt. of School and Mass Education vide order dated 27.10.1997 under Annexure-A/1 posted the petitioner as Principal KSUB, CTE, Bhanjanagar. It is further submitted that subsequent to his posting as Principal vide order under Annexure-A/1, the Petitioner in different communications issued by the Opposite Parties was treated as Principal and was allowed to draw various service benefits as due and admissible to such post. It is also submitted that vide Notification dated 14.6.2002 under Annexure-A/4, the Petitioner was transferred to U.G. B.Ed., College, Baripada as Principal. It is the further submission of Mr Ojha, learned counsel for the Petitioner that while continuing as Principal in UG B.ED. College, Baripada, he retired from service on attaining the age of superannuation on 31.8.2008. The said fact was also reflected in the service books of the petitioner vide Annexure-A/5. Mr. Ojha further submitted that since by the time the Petitioner retired from his service on 31.8.2008, the benefit of pay scale as

provided under 6th C.P.C recommendation was not available and it was only notified by Notification dated 28.1.2010 of the Govt. in the Department of Higher Education vide Annexure-A/6. The Petitioner basing on the said notification moved an application seeking extension of the pay scale in the pay band of Rs.37,400/-Rs.67,000/- with Grade Pay of Rs.10,000/-.

5. It is submitted by Mr. Ojha, learned counsel for the Petitioner that without extending the pay scale with the Grade Pay as due and admissible in favour of the Petitioner, the Govt. in the Department of Higher Education vide the impugned order dated 6.4.2011 under Annexure-A/7 though allowed the pay band of Rs.37,400-Rs.67,000/- but allowed Grade Pay of Rs.9,000/- in place of Grade pay of Rs.10,000/-. It is also submitted that subsequent to passing of the impugned order dated 6.4.2011, the Petitioner though moved Opp. Party No.2 on 30.4.2011 with a request to allow Grade Pay of Rs.10,000/-, but the same was never acceded to. The Petitioner accordingly moved this Court in the present Writ Petition with the prayer as indicated above.

6. Even though, notice of the Writ Petition was issued on 24.4.2012, but in spite of several opportunities, no counter affidavit was filed controverting the grounds taken by the petitioner in the Writ Petition. In absence of such counter, this Court was constrained to proceed with the matter basing on the material available on record.

7. Mr. Praharaj, learned Standing Counsel appearing for the Opposite Parties while supporting the impugned order submitted that since the petitioner was continuing as Principal In-charge, he was rightly allowed with the Grade Pay of Rs.9,000/- and the petitioner is not entitled to get Grade Pay for Rs.10,000/-. Accordingly, Mr. Praharaj, learned Standing Counsel appearing for the Opp. Parties held that the impugned order has been passed rightly by the Opp. Party No.1, which needs no interference by this Court.

8. Mr. Ojha, learned counsel for the Petitioner while relying on the stand taken in the Writ Petition also brought before this Court the copy of the P.P.O filed by the Petitioner through a memo dated 16.3.2022. In the said P.P.O, the Petitioner was shown as retired Principal of UG B.Ed. College, Baripada. Not only that the Petitioner's period of service was also reflected as from 9.11.1974 to 31.8.2008. Mr. Ojha, in the said memo also enclosed the Resolution dated 14.12.2009 issued by the Deptt. of Higher Education. In the said Resolution and in respect of Principal (Degree College Reader Grade, revision of pay scale was of @ Rs. 37,400- Rs.67,000/- with Grade Pay of Rs.10,000/-.

9. Having heard learned counsel for the parties and in view of the uncontroverted stand of the Petitioner, this Court is of the view that the Petitioner while continuing as Principal in UG B.Ed, College, Baripada retired from service on 31.8.2008. In various communication issued by the Opposite Parties, the petitioner was shown as Principal and in none of the documents, the Petitioner

was ever shown as Principal In-charge. But the Opp. Party No.1 by showing the Petitioner as Principal In-charge in the impugned order under Annexure-A/7 disallowed the benefit of Grade Pay of Rs.10,000/- in favour of the Petitioner. Since in none of the communications, the Petitioner was ever shown as Principal In-charge, this Court has got no hesitation in quashing the Office Order dated 6.4.2011 vide Annexure-A/7 and the same is hereby quashed.

10. This Court further directs the Opp. Parties to extend the benefit of Grade Pay of Rs.10,000/- in favour of the Petitioner w.e.f 1.1.2006 and recalculate his entitlements. This Court further directs the Opposite Parties to extend all the differential salary as due and admissible on such extension of the Grade Pay of Rs.10,000/-. This Court also directs the Opposite Parties to re-fix the pension of the Petitioner accordingly and after such re-fixation release all the arrears as due and admissible. It is also directed that the entire exercise shall be completed by the Opp. Party No.1 within a period of four months from the date of receipt of this order.

11. With the aforesaid observation and direction, the Writ Petition is disposed of. There shall be no order as to costs.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 20th of April, 2022/sangita