

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OAC) No.3244 of 2017

Sri Pratap Pradhan

....

Petitioner

Mr. Biswabihari Mohanty, Advocate

-versus-

State of Orissa and others

....

Opposite Parties

Mr. Biswajit Mohanty, S.C., S. & M.E.

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

09.02.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for both the parties.
3. The present application has been filed by the Petitioner with a prayer to quash the impugned order dated 14.11.2017 passed by the Block Education Officer, Ballipatna, under Annexure-8. From the impugned order, it is revealed that the BEO reduced the grade pay of the Petitioner from of Rs.4800/- to Rs.4600/-, which the Petitioner was getting after revision of pay under the RACP Scheme, w.e.f. 1.1.2013. The further case of the Petitioner is that the Petitioner was appointed in the year 1983 and after completion of 10/20 years of service period, the Petitioner was granted RACP benefits as per the scheme floated by the Government of Odisha. In the said RACP scheme, the Petitioner was granted the grade pay of Rs.4800/- w.e.f. 1.1.2013. He was granted promotion by order dated 18.11.2013 of the B.E.O., Khurda. But in the very same year, as

reflected in the petition, the grade pay of the Petitioner was Rs.4,200/- in TB-II and he was posted as Assistant Block Education Officer. Therefore in effect the grade pay was reduced by a sum of Rs.600/- upon promotion of the Petitioner to the post as Assistant Block Education Officer. Challenging such action of the Opposite Parties, the present writ petition has been filed.

4. Mr. Mohanty, learned counsel for the Petitioner submits that the conduct of the Opposite Party in the present case is absolutely illegal and arbitrary, inasmuch as, no notice whatsoever was given to the Petitioner before reducing the grade pay from Rs.4800/- to Rs.4200/-, vide order dated 8.11.2013, although he was given promotion in the same year. Mr. Mohanty further submits that once the benefits were given under the RACP scheme, the Petitioner is legally entitled to get the enhanced sum even though he is given promotion subsequently.

5. Mr. Biswajit Mohanty, learned Standing Counsel for School and Mass Education Department submits that the conduct of the Opposite Parties are in accordance with law and as per the prevalent Rules. Further he submits that no illegality has been committed by the Opposite Parties as the Petitioner was given promotion subsequent to the benefit granted to the Petitioner under the RACP Scheme. He further submits that the benefit under the RACP Scheme is granted to the persons whose future promotional avenue becomes stagnant. Therefore, he defends the conduct of the Opposite Parties.

6. Heard the counsel for the parties This Court is of the prima facie view that the basic minimum requirement in law is while

reducing the grade pay, the Authority should have been given a notice to the Petitioner. Reduction in grade pay is otherwise is punitive in nature. Therefore it was incumbent upon the Opposite Parties to provide an opportunity of hearing/show-cause before the decision was taken to reduce the grade pay. The same having not been done in the present case, this Court is of the firm view that the Authorities have committed illegality, which is unsustainable in the eye of law.

7. In the facts and circumstances stated hereinabove, this Court while disposing of the writ petition sets aside the order dated 14.11.2017 under Annexure-8. Further direction is given to the Authorities to pass the final order after providing opportunity of hearing to the Petitioner. It is open for the Petitioner to file his show-cause along with the documents/judgments, which he is relying upon in support of his contention. The entire exercise shall be completed within a period of two months from the date of receipt of certified copy of this order by the D.E.O., Khurda (O.P. No.3).

8. With the aforesaid observation, the writ petition stands disposed of.

9. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge