

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC(OA) No.2425 of 2013

Sri Harish Kumar Mishra

....

Petitioner

Mr. N.Ku. Mahapatra, Advocate

-versus-

***Commissioner-cum-Secretary of
Govt. of Odisha & Others***

....

Opposite Parties

Mr. A. K.Nanda, AGA

**CORAM:
JUSTICE M.S. RAMAN**

**ORDER
28.02.2022**

Order No.

- 01.** 1. This matter is taken up by virtual/physical mode.
2. The Original Application No.2425 of 2013 was filed before the Odisha Administrative Tribunal, Bhubanswar. After its abolition, the same has been transferred to this Court which is renumbered as WPC(OA) No.2425 of 2013.
3. The Petitioner/Applicant while continuing as Additional Registrar of Cooperative Societies retired from Govt. service on superannuation w.e.f. 31.01.2009. The Petitioner/Aapplicant) has set up his claim for upgradation of the scale of pay in consonance with Resolution vide No. I-FE-II-A-10/10-12381/Coop., Date-30.11.2010.
4. Learned counsel for the Petitioner submits that as per the Annexure-4 (Resolution), juniors to the Petitioner/Applicant, those were promoted subsequently, got more pay than the applicant and in the process, the applicant continued to suffer.

P.T.O.

5. Mr. A.K. Nanda, learned Additional Govt. Advocate relies on the counter reply filed on behalf of the Respondent No. 1 in O.A. No. 2425 of 2013 (now renumbered as WPC (OA) No. 2425 of 2013) submits that the resolution is not applicable to the person who got superannuated prior to the effectiveness of Resolution. He further submits that the resolution is effective from the date of its issue i.e. 30.11.2010. He relies on para-4 of the counter reply and the same is as follows:-

“4. That in reply to the averments made in para 6.6. and 6.7 it is submitted that previously there was no separate scale of pay exists for the post of Addl. RCS and the officer of JRCS Level-I cadre on promotion to the post of Addl. RCS was in receipt of his own scale of pay. In other words, the post of Addl. RCS was a promotional post with no separate scale of pay, unlike in the other Department like Agriculture, industries, P & C, where in the Pay Bank-3 is allowed to the officers of Addl. Directors cadre and Pay Bank-4 is to the officers of Addl. Directors cadre. However, Government in Cooperation Department with concurrence of F.D., have upgraded the scale of Addl. RCS from PB-3 to PB-4 with Grade Pay of Rs.8700/- and as per Resolution to new scale came into force w.e.f. 30.11.10. But, by that time, the applicant was not in service as has retired on superannuation on 31.01.2009. So, the applicant is not entitled for the upgraded scale of pay of the Addl. RCS, as the Resolution in question has no retrospective.”

6. Learned counsel for the State referring to para-5 of the counter brings to the notice of this Court regarding the judgment rendered by the Hon'ble Supreme Court in case of *Union of India & Other vs. Dr. Vijayapurapu Subayamma*; 2000 (7) SCC 662.

7. Learned counsel for the Petitioner at this stage submits that his representation vide Annexure-5 submitted to the Opposite Party No.1 is pending since 2012.

8. Without entering into the merits of the matter, it would suffice if the Petitioner/Applicant sends copy of the representation with copy of the petition (OA) along with a copy of this order through registered post with A.D. to the Opposite Party No.1. The Opposite Party No.1 after receiving the said document may take a decision in accordance with law as expeditiously as possible preferably within a period of three months hence.

9. It is clarified that the aforesaid exercise shall be made by the Opposite Party No. 1 if the representation dated 19.6.2012 (Annexure-5) is still pending consideration.

10. In view of the above, the writ petition is disposed of.

Issue urgent certified copy as per rules.

(M.S. Raman)
Judge

Aks