

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.34858 of 2021

Chintamani Patra

....

Petitioner

Mr. Laxmikanta Mohanty, Advocate

-versus-

State of Odisha and others

....

Opposite Party

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

04.11.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Government Advocate.
3. The present writ application has been filed by the Petitioner with the following prayer:-

“It is, therefore, prayed that this Hon’ble Court may graciously be pleased to issue notice to the opp.parties calling upon them to file show cause as to why a order dated 3.11.2020 issued by the opp.party no.1 under Annexure-8 and the order dated 22.06.2021 issued by the opp.party no.1 as communicated by the opp.party no.3 under Annexure-10 shall not be quashed and after hearing the parties be pleased to quash the order dated 3.11.2020 under Annexure-8 as well as the order dated 22.06.2021 under Annexure-10. A further direction be issued to opp.parties to extend/grant grade pay of Rs.4800/- as 3rd RACP benefit in favour of the petitioner with effect from 1.1.2013 and according revise his pay as per ORSP Rules, 2017 with effect from 1.1.2016 and release the arrears.

As the petitioner has superannuated from service with effect from 30.09.2019 his pension may be revised accordingly and release the arrears in favour of the petitioner within a date to be fixed by this Hon'ble Court.

And pass any other order/orders, direction/directions as this Hon'ble Court may deem fit and proper."

4. It is submitted by the learned counsel for the petitioner that the Petitioner has been denied pensionary benefit which the petitioner is entitled to. Further, it is submitted by the learned counsel for the Petitioner that the order dated 03.11.2020 under Annexure-8 impugned in this case has been quashed by this Court in W.P.(C) No.32191 of 2020 (*Sanju Dei and others v. State of Odisha and others*). In such view of the matter, learned counsel for the Petitioner submits that the case of the Petitioner shall be considered in the light of the judgment delivered by this Court in *Sanju Dei and others v. State of Odisha and others*, in W.P.(C) No.32191 of 2020 disposed of on 17.03.2022. It is further submitted that the payment of 3rd RACP benefit is covered in the case of *Biharilal Barik vs. State of Odisha* (W.P.(C) No. 2831 of 2016 disposed of dated 27.06.2016), which has been confirmed by the Apex Court in Diary No. 20358 of 2017 decided on 23.08.2017 settling the position of law that the grade pay of the promotional post having hierarchy in the cadre is to be made available to the Govt. employee. The said principle is applicable to the petitioner on completion of 20 years of continuous service.

5. Learned Additional Government Advocate on the other hand submits that since this Court has already quashed the order dated 03.11.2020 under Annexure-8 in *Sanju Dei and others* (supra), let

the authority be directed to reconsider the matter afresh taking into consideration the order passed by this Court in *Sanju Dei and others* (supra).

6. Having heard learned counsel for the parties and considering the limited nature of grievance, this Court deems it proper to set aside the impugned order dated 03.11.2020 under Annexure-8. Further the matter is remanded to the authority. In the event the Petitioner's case is covered by the judgment delivered by this Court in *Sanju Dei and others* (supra) and *Biharilal Barik vs. State of Odisha* (supra) in such eventuality the Opposite Party Nos.1 and 2 shall do well to sanction and disburse the pensionary benefit payable to the Petitioner within a period of two months from the date of production of certified copy of this order.

7. With the aforesaid observation, the writ application stands disposed of.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge