IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No.589 of 2017

An application under Section 19 of the State Administrative Tribunal's Act, 1985.

.....

Minati Kumari Mohapatra .... **Petitioner**

-versus-

State of Odisha & Others .... **Opposite Parties**

For Petitioner : M/s. Mr. Ranjit Mohanty, D.K.Mitra & M. Mohanty.

For Opp. Parties : M/s. P.Bhardawaj, Addl. Standing Counsel.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing:06.05.2022 and Date of Order:12.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. U. Mohanty, learned counsel for the Petitioner and Mr. P. Bhardawaj, learned Addl. Standing counsel for the State-Opposite Parties.

3. The Petitioner has filed the present Writ Petition with the following prayer:-

"(i) The Hon'ble Tribunal be pleased to declare and direct that the fixation of pay of the applicant made as per

office order dt. 05.11.2014, Annexure-7, pursuant to Finance Dept. resolution dt. 06.02.2013 and 08.08.2013, Annexure-3 & 4 is legal and valid and the Hon'ble Tribunal on such basis be pleased to further direct that the impugned order, Annexure-8, passed by the Respondent No.2 ignoring such resolutions of the Finance Dept. as well as the recommendation of the Screening Committee, is illegal and not sustainable in the eyes of law and the same may be quashed, and

(ii) The Hon'ble Tribunal be pleased to pass such other order / orders as is deemed fit and proper under the facts and circumstances of the case".

4. It is submitted by Mr. Mohanty, learned counsel for the Petitioner that even though pursuant to the Finance Department Resolution dated 06.02.2013 and 08.08.2013 under Annexures-3 & 4, the Petitioner's pay was rightly fixed as per the office order dated 05.11.2014 under Annexure-7, but the said order was withdrawn vide the impugned order dated 18.04.2017 under Annexure-8.

5. It is also submitted that learned Tribunal while issuing notice of the matter vide order dated 25.04.2017 stayed the operation of the order dated 18.04.2017 passed under Annexure-8.

6. Mr. Mohanty, learned counsel for the Petitioner in course of hearing brought to the notice of this Court, the order passed by this Court on 21.08.2019 in W.P.(C) No.8798 of 2019.

7. It is submitted that the impugned order dated

18.04.2017 under Annexure-8 was also the subject matter of the Tribunal in O.A No.600 of 2017. Learned Tribunal vide order dated 26.04.2018 when was placed to set aside the said order in respect of the similarly situated Petitioner, the same was challenged before the learned Tribunal by filing R.P. No.44 of 2018.

8. It is submitted that when vide order dated 07.01.2019, learned Tribunal dismissed the said R.P No.44 of 2018, State-Opposite Party challenging the initial order dated 26.04.2018 passed in O.A. No.609 of 2007 and the order dated 07.01.2019 passed in R.P. No.44 of 2018 approached this Court in W.P.C No.8798 of 2019.

9. It is submitted that this Court vide its order dated 21.08.2019 was pleased to dismiss the said Writ Petition filed by the State-Opposite Parties and thereby confirmed the order passed by the learned Tribunal in O.A. No.600 of 2017. It is accordingly submitted that since the order dated 18.04.2017, which is impugned in the present writ petition was the subject matter in O.A. No.600 of 2017 and the order of the learned Tribunal dated 26.04.2018 in quashing the said order has been upheld by this Court in its order dated 21.08.2019, nothing remains to be decided so far as the present Writ Petition is concerned. Accordingly Mr. Mohanty, learned counsel for the Petitioner submitted that the impugned order dated 18.04.2017 so far as it relates to the Petitioner be also quashed.

10. Mr. Bhardawaj, learned counsel appearing for the State-Opposite Party did not dispute the submission made by the learned counsel for the Petitioner.

11. Mr. Bhardawaj, learned counsel appearing for the State-Opposite Party also accepted the submission that the impugned order dated 18.04.2017, which was quashed by the learned Tribunal in O.A No.600 of 2017 has been upheld by this Court in its order dated 21.08.2019 in W.P.(C) No.8798 of 2019.

12. In view of such stand taken by the learned counsel appearing for the Parties and in view of the order passed by this Court in W.P.(C) No.8798 of 2019, the impugned order dated 18.04.2017 so far as it relates to the claim of the Petitioner is hereby quashed. While quashing the same, this Court directs the Opposite Parties to extend all service and financial benefits as due and admissible in favour of the Petitioner within a period of three months from the date of receipt of this order.

13. With the aforesaid observations and directions, the WPC(OA) stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 12th of May, 2022/Subrat