

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No.95 of 2017

Sihmadri Trinath Rao

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

22.08.2022

Order No

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. J.N.Jena, learned counsel for the Petitioner and Mr. M.K.Balabantaray, learned Standing Counsel for the State-Opposite Parties.
3. The applicant has approached this Tribunal with a prayer to direct the State-Respondents to modify the impugned order at Annexure-7 by allowing the applicant the Grade Pay of Rs.6600/- with increment @ 3 % in accordance with the Rule 13 of ORSP Rules, 2008 with all other consequential financial and benefits on completion of 30 years of continuous service on availing of 3rd financial up-gradation under RACPS and with a further direction for re-fixation of his pay incorporating the modified order of financial benefits and to re-fix of his pension and pensionary benefits as a consequential benefits on basis of his revised last pay drawn and the amount be drawn & disbursed to him at an early date.

2. Heard learned counsel for the Applicant Mr. J.N.Jena and learned Standing Counsel for the State Mr. M.K.Balabantaray.

3. The applicant's case is that he entered into Govt. Service as a Welfare Extension Officer (WEO) on 18.08.1979. His service conditions are guided by their cadre Rules namely: The Odisha Welfare Service (Method of Recruitment & conditions of Service) Rules, 1992 read with the amended provisions of Odisha Welfare Service (Method of Recruitment & conditions of Service) (Amendment) Rules, 2008. According to the provisions of these aforesaid Rules, the post of Welfare Extension Officer has got promotional hierarchy to the posts of Assistant District Welfare Officer with the grade pay of Rs.4600/- and then to the post of District Welfare Officer with the grade pay of Rs.5400/- and then to the post of Project Administrator, ITDA/ Deputy Director, ST & SC Welfare Department with the grade pay of Rs.6600/- and then to the post of Director, SC & ST Welfare Department in the grade pay of Rs.7600/- in accordance with the provisions of ORSP Rules, 2008.

4. The Govt. of Odisha in accordance with the provisions of ORSP Rules, 2008 introduced Revised Assured Career Progression Scheme (RACPS) for the State Govt. employees w.e.f. 1st January, 2013 as per the Finance Department Resolution No.3560-PCC(A)-49/2012-F, dt. 06.02.2013 at Annexure-3 published in Odisha Gazette on 18.02.2013. Further the Finance Department vide its Resolution at Annexure-6

categorically clarified that the three RACP benefits on completion of 10,20 and 30 years of service shall be available to each employee based on the total number of years of service rendered by the employee. The three levels for RACP shall be decided on the basis of the pay band and grade pay at which the employee entered the Government service. If the grade pay of promotional post is equal or more than the grade pay to be availed under next stage of RACP scheme, if due any, on the basis of the feeder post, the pay shall be fixed under Rule 13 of ORSP Rules, 2008 subject to adjustment of benefit availed in the shape of TBA/ACP in terms of paragraph-18 of Resolution No.3560/F, dtd.06.02.2013 instead of next enhanced grade pay of the post being held.

5. The learned counsel for the applicant submits that the applicant as on 01.01.2013 was holding the post of ADWO with the Grade Pay of Rs.4600/-. As such, he is entitled for getting RACP on completion of 10, 20 and 30 years of service keeping in his promotional avenues available to him under his Cadre Rule with the Grade Pay of the promotional post @ Rs.5400/- on completion of 20 years of service and the Grade Pay of Rs.6600/- on completion of 30 years of service as per the Finance Department Resolution at Annexure-3 & 6. But the Respondent No.1 at Annexure-7 on recommendation of the screening committee has wrongly only allowed the Grade Pay of Rs.5400/- on completion of 30 years of service treating

it as single cadre post w.e.f. 1.1.2013 in respect of the applicant.

6. The learned counsel for the applicant submitted that the matter has already been decided in good number of cases wherein the principle has been settled in those cases that an employee is entitled to the grade pay of the promotional post, even if both the posts are born in different cadre, which is fully applicable to the applicant keeping in view the case of Biharilal Barik and Batch cases decided in O.A No.520/2014 by this Tribunal which has been confirmed by the Hon'ble High Court of Odisha in W.P.(C) No.2831/2016 in the case of State of Odisha and another Versus Bihari Lal & Others as per the judgment dt.27.06.2016. Further, it is submitted that similar matters in O.A. No.3239/2015 & batch and in O.A No.1.2237/2014 & batch have already been decided by this Tribunal granting the higher Grade Pay of promotional posts to the Govt. servant similarly situated like the applicant while allowing RACP. Since the applicant has got promotional avenues with higher grade pay of Rs.5400/- and Rs.6600/-, he is entitled to get the Grade Pay of Rs.5400/- on completion of 20 years of service and Grade Pay of Rs.6600/- on completion of 30 years of service w.e.f. 1.1.2013 with incremental fixation of his pay adding 3% to his pay on each term of fixation of pay. Accordingly, the impugned order at Annexure-7 is illegal and unsustainable in the eye of law which needs to be modified as per the prayer made in the O.A.

7. Although several opportunities were provided to the State Respondents to file counter in this case but not counter has been filed in this O.A. However, the learned Standing Counsel submitted that since the applicant has been provided with the RACP benefits as per order at Annexure-7, the application needs no further consideration.

8. Keeping in view the law settled by this Tribunal in good number of similar cases and being confirmed by our own High Court in the case of State of Odisha and another Versus Bihari Lal & Others, this Writ Petition is disposed of with a direction to the State Respondents to modify the order at Annexure-7 and to allow the applicant to avail the Grade Pay of Rs.5400/- and Rs.6600/- on completion of 20 years and 30 years of service in accordance with the Rule 13 of ORSP Rules, 2008 with all other consequential financial benefits and to re-fix his pension and pensionary benefits as a consequential benefits on basis of his revised last pay drawn and the amount be drawn& disbursed to him within a period of three months from the date of receipt of the copy of this order.

9. The Writ Petition is allowed accordingly.

(Biraja Prasanna Satapathy)
Judge

Subrat