

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No. 1654 of 2017

Kishore Chandra Behera **Petitioner**

Mr. Gopal Sinha, Advocate

-versus-

State of Orissa & others **Opp.parties**

Mr. N.K. Praharaj, Govt. Advocate (SAT) for O.P.Nos.1 to 4

Mr. Sudhir Ku. Patra, Standing Counsel for

O.P.No.5(Accountant General)

CORAM:

JUSTICE M.S.SAHOO

ORDER

20.12.2022

Hybrid Mode

Order No.

2. 1. The petitioner, working as Pharmacist in Sub-District Hospital, Kuchinda, Sambalpur, filed the Original Application in the year 2017 challenging the order of recovery dated 16.05.2017 (Annexure-4) passed by the respondent no.1-Govt. of Odisha, Health and Family Welfare Department which was communicated by the respondent no.3-Chief District Medical Officer, Sambalpur vide letter dated 21.6.2017 to all the Additional District Medical Officers/Sub-Divisional Medical Officers, Kuchinda/Rairakhol/All Community Health Centres of Sambalpur District.

By the said order dated 16.05.2017 (Annexure-4) recovery of the amount was suggested, that was paid to the petitioner towards benefit of Revised Assured Career Progression (RACP) as per the Odisha Revised Scale of Pay Rules (ORSP) Rules, 2008 as it was clarified in the said letter that the RACP benefit to be granted during the period from 01.01.2013 to 29.06.2015 shall be Rs.2800, Rs.4200/- & Rs.4600/- respectively instead of Rs.4200/-, Rs.4600/- & Rs.4800/-.

2. When the matter last taken up last on 09.11.2022, after considering it in some detail and considering the submissions of the learned counsel for all the opposite parties, the following order was passed :

“2.The writ petition has been registered before this Court on 18.01.2022 after the Original Application was transferred from the learned Odisha Administrative Tribunal, Cuttack Bench, Cuttack upon abolition.

3. On perusal of the available order sheets of the learned Tribunal, it is indicated that notices were issued on 03.07.2017 in the batch of Original Applications with the following interim orders:-

“So far as prayer for interim relief is concerned, operation of order dated 16.05.2017 of respondent No.1 as at Annexure-4 as well as Memo No.3477 dtd. 21.06.2017 mentioned in Annexure-4 shall not be given effect to till filing of counter.”

4. It is submitted by the learned counsel for the petitioner that considering the prayer made in the O.A., he may be accommodated for some time to obtain instruction regarding the present status of the RACP if granted to the petitioner or not.

5. Learned Standing Counsel for the Opposite Party No.5, Accountant General refers to the counter dated 27.11.2017 filed before the learned Tribunal.

6. Learned Govt. Advocate, SAT seeks accommodation to obtain up-to-date instruction.

As prayed for, list on 14th December, 2022 so as to enable the learned counsel to obtain instruction as to whether any cause of action still survives for adjudication by this Court.

Copy of the order be uploaded.”

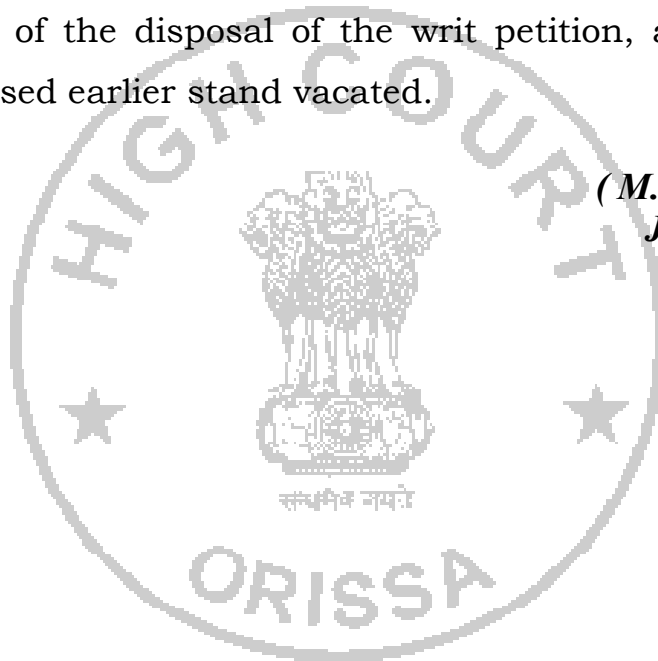
3. When the matter is taken up today, learned counsel for the petitioner submits that he has no up-to-date instruction to pursue the matter at present on behalf of the petitioner.

4. It is submitted by the learned Additional Government Advocate as well as learned Standing Counsel for O.P.No.5 - Accountant General that in view of the implementation of the ORSP Rules, 2017, nothing may survive for adjudication as far as the present writ petition is concerned.

5. Having heard the learned counsel for the parties, the writ petition is disposed of granting liberty to the petitioner to revive the same within ninety days for any surviving cause of action.

6. In view of the disposal of the writ petition, any interim orders passed earlier stand vacated.

(M.S.Sahoo)
Judge



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