

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC(OAC) No.1595 OF 2017

Surendra Mohan Behera

....

Petitioner(s)

Mr.G.Sinha,
Advocate

-versus-

State of Odisha and others

....

Opposite Party(s)

Mr.S.K.Patra,
Adv. for O.P.5

CORAM:
JUSTICE BISWANATH RATH

ORDER
24.08.2022

Order No.

01.

1. Heard learned counsel for the Parties.

2. The Writ Petition involves the following reliefs:-

“In view of the facts stated above, the Applicant pray that this Hon’ble Tribunal may graciously be pleased to

- i) Admit the Original Applicant,
- ii) After hearing the parties be pleased to quash the order dated 16.05.2017 (Annexure-4),
- iii) Further the Respondents be directed to continue to extend the benefits as already made available to the Applicant pursuant to formulation of the RACP scheme under Annexure-2 and the applicant be granted all other service benefits as is due and admissible to the post of Pharmacist.”

3. There is no dispute at the Bar that in the meantime the batch of cases on self-same issue have come to be disposed of by the direction of the Tribunal itself, in disposal of O.A. No.1452 (C) of 2017 along with several other matters. Not only that based on such decision, there has been also implementation of direction therein by the competent authority involving petitioner in the case of O.A. No.1452 (C) of 2017.

4. For the position of law settled through disposal of O.A. No.1452 (C) of 2017, this Court while interfering in the impugned order at Annexure-4 allows the application directing the competent authority as follows:-

(i) The RACP benefit as per FD Resolution dated 6.2.2013 in favour of Pharmacists, whose RACP benefits accrued prior to coming into force Odisha Pharmacist Rules, 2015 w.e.f. 30.6.2015, shall be computed treating the Technical Store Keeper as the next promotional post of Pharmacists for granting 1st RACP benefit and on that basis they shall be granted the next available grade pay of 1st Schedule of ORDP Rules, 2008 towards 2nd and 3 RACP benefits.

(ii) The RACP benefit as per FD Resolution dated 6.2.2013 in favour of Pharmacists, whose RACP benefits accrued on or after 30.6.2015 shall be strictly computed as per the grade pay available of the next promotional posts defined in Odisha Pharmacist Rules, 2015.

(iii) The State respondents are at liberty to revise the pay of the Pharmacists whose cases are covered under the Odisha Pharmacist Rules, 2015 on the basis of the aforesaid principle and may issue appropriate orders to that effect. However, there shall be no recovery in case any excess amount is found, keeping in view the status of Pharmacists to be Group-C officers and the principle decided by the Hon'ble Apex Court in the case of State of Punjab and others vs. Rafiq Masih (White Washer) reported in (2015) 2 SCC (L&S) 33.

(iv) The impugned order issued by the Government dated 16.5.2017 under Annexure-2 be modified accordingly. With the above observation/direction, all the O.As. are disposed of.

Further course of action in implementation of this Court directions be concluded within a period of two months from the date of communication of this order by the Petitioner.

(Biswanath Rath)
Judge