

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.31360 of 2022

Tankardhar Rout

.... ***Petitioner***
Mr.P.K.Mishra, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***
Mr.A.Behera, A.S.C

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

25.11.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel.
3. The present writ application has been filed with a prayer for a direction to the Opposite Parties particularly Opposite Party No.4 to refix the pay of the Petitioner in the revised Grade Pay of Rs.4600/- with effect from 22.01.2013 as the same has been sanctioned in favour of the Petitioner by Opposite Party No.3 vide his order dated 17.09.2022 under Annexure-3 and to disburse the arrear dues within a stipulated period of time. Further, with prayer for a direction to Opposite Party Nos. 3 and 4 to transmit the revised pension papers to Opposite Party No.5 within a stipulated period of time and the Opposite Party No.5 be directed to issue revised P.P.O., G.P.O and C.V.P.O. in favour of the Petitioner for drawal of differential retirement dues within a stipulated period of time.
4. It is submitted by the learned counsel for the Petitioner that the

financial upgradation under RACP claim has been sanctioned in favour of the Petitioner. Accordingly, vide Office Order dated 17.09.2022 the Petitioner has been sanctioned a Grade Pay of Rs.4600/- as per 3rd RACP. On perusal of letter dated 17.09.2022 under Annexure-3 it appears that the name of the Petitioner has been reflected in sl.no.2 belonging to Sambalpur Forest Division and further it is revealed that the 3rd RACP benefit in shape of Grade Pay of Rs.4600/- has already been sanctioned in favour of the Petitioner with effect from 22.01.2013. Therefore, there is no legal impediment in disbursing such financial benefit and further revise the salary and the differential retiral dues on such basis.

5. Learned counsel for the Petitioner at this juncture draws the attention of this Court to a letter No.23544 dated 19.11.2022 under Annexure-5 issued by the Office of the Principal Chief Conservator of Forest wherein it has been stated that “further Grade Pay of Rs.4600/- under 3rd RACP to Forest Guard in the absence of promotion, if applied by simple interpretation in the absence of explicit Court direction is wrong”. The stand taken by the Departmental Authority also brought to the attention of this Court on earlier occasion. This Court on several earlier occasions had directed the Departmental Authority to clear the 3rd RACP benefit on the basis of a Government circular and not to insist upon Court’s order. Despite such clear and unambiguous direction, the authorities are still insisting for production of Court’s order which is viewed seriously by this Court.

6. Learned Additional Standing Counsel on the other hand submits that although 3rd RACP has been sanctioned in favour of the Petitioner vide letter under Annexure-3, however due to some confusion in implementation of the Government circular, some of the

Government Offices as a precautionary measure insisting upon clarification from Court. Therefore, the letter under Annexure-5 was issued by the Conservator of Forest to all concerned.

7. Having heard learned counsel for the respective parties and upon consideration of the rival contention raised and on perusal of the documents attached to the writ application, this Court is of the considered view that the Departmental Authority should not have insisted upon any Court's order unnecessarily forcing the Government employees to approach the Court of law instead of acting upon on the basis of the Government circular. Further, it is unfortunate to note here that despite direction on several earlier occasions, the authorities are still insisting upon production of order passed by this Court. However, on the prayer of the learned Additional Standing Counsel, this Court at this juncture, does not want to take any action against such Officers those who are insisting upon production of Court's order. However, it is expected that the mistake shall be rectified in future and shall not be repeated. In the fact of the present case, the authorities are directed to recalculate the retiral dues by taking into consideration the 3rd RACP benefit which has been sanctioned in favour of the Petitioner vide letter under Annexure-3 and accordingly the service benefits which have not been paid as well as the differential amount be calculated and paid to the Petitioner within a period of two months from the date of production of certified copy of this order. It is further directed that the Opposite Parties shall also take steps to expedite the process of sanctioning and send the PPO, GPO & CVPO to the competent authority for drawal of the differential amount within a stipulated time as has been directed hereinabove.

8. With the aforesaid observation and direction the writ application is disposed of.
9. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge

