

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 38277 of 2020

Braja Kishore Pradhan

.....

Petitioner

Mr. B. Pasayat, Adv.

Vs.

State of Odisha & Ors.

.....

Opposite Parties

Mr. B. Mohanty, Standing Counsel, S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

21.12.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Mr. B. Pasayat, learned counsel for the petitioner and Mr. B. Mohanty, learned Standing Counsel appearing for the School and Mass Education Department.

3. The petitioner has filed this writ petition seeking to quash the order dated 14.12.2020 issued by opposite party no.2 under Annexure-1, and to issue direction to opposite party no.3 to step up his pay and antedate his increments at par with the juniors in the same cadre and to release all consequential benefits within a stipulated time.

4. Mr. B. Pasayat, learned counsel for the petitioner contended that rejection of the claim of the petitioner for stepping up his pay has been done applying wrong provisions of law and, as such, the order passed under Annexure-1 dated 14.12.2020, refusing to grant such benefit, cannot sustain in the eye of law and the same should be quashed.

5. Mr. B. Mohanty, learned Standing Counsel appearing for the School and Mass Education Department contended that the order impugned passed by the authority is well justified and, as such, the same does not require any interference of this Court.

Consequently, he seeks for dismissal of the writ petition.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner, being selected by the Odisha Staff Selection Commission (OPSC), was appointed as Asst. Teacher (TGT Science) CBZ in Jr. SES cadre on 30.12.1998 at Government High School, Kumuli in the district of Koraput and at present continuing at Panchayat High School, Chipilima in the district of Sambalpur under the administrative control of opposite party no.3. But it is contended that one Pradeep Kumar Pujhari, (TGT Science), who joined in the same cadre, i.e., Jr. SES on 12.02.1999 on rehabilitation assistance scheme as Asst. Teacher in P.P. Academy, Bolangir and is now working at Rampur High School, S. Rampur, and admittedly junior to the petitioner, his pay has been fixed higher than the petitioner. As it appears, the increment of the petitioner falls in the month of January, whereas Pradeep Kumar Pujhari in February, as per the entry made in the service book. In the year 2006, as per 6th pay fixation, the pay of the petitioner was fixed at Rs.11,260/-, whereas Pradeep Kumar Pujhari was fixed at Rs.10,980/- on 1st January, 2006. But after increment in February, 2006, Pradeep Kumar Pujhari got higher pay of Rs.11,440/-, whereas the pay of the petitioner remained as Rs.11,260/- even though he is senior to him. Further, in the 2016 7th pay fixation, the pay of the petitioner as well as Pradeep Kumar Pujhari was fixed at Rs.56,900/- on 1st January, 2016. But on account of his increment in February, 2016, again he got higher pay of Rs.58,600/- from February, 2016 whereas the petitioner got the same pay of Rs.56,900/-, even though he is senior to him. The rules for stepping up

pay/increment antedation clearly provides that if the junior government servant gets more than senior due to grant of next increment in the revised structure, in such eventuality the increment of the senior shall be antedated or the pay be stepped up to that stage of the junior. The next increment of the senior after such antedation/stepping up pay shall be on the date the junior gets. As it appears, even though such a provision is available to step up the pay of the petitioner, but the same was not done and, as such, when the petitioner made grievance by filing representation, the same was rejected vide order dated 14.12.2020 under Annexure-1 by a wrong provisions of law with regard to RACP, which was not the claim of the petitioner. Thereby, this Court is of the considered view that the order dated 14.12.2020 under Annexure-1 cannot sustain in the eye of law and the said is liable to be quashed and is hereby quashed. The matter is remitted back to the Director, Secondary Education, Odisha-opposite party no.2 to reconsider the case of the petitioner and pass appropriate order in accordance with law keeping in view the fact, as discussed above, as expeditiously as possible, preferably within a period of three months from the date of production of certified copy of this order.

7. The writ petition is accordingly disposed of.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok