

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.38538 of 2021

Niranjan Bala

....

Petitioner

Mr. L.K.Mohanty,, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr.P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

25.04.2022

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 counsel for the State. Perused the record.
3. The present writ petition has been filed by the Petitioner with the following prayer:-

“It is therefore, prayed that this Hon’ble Court may graciously be pleased to issue notice to the Opposite Parties calling upon them to file show cause as to why a order dated 3.11.2020 under Annexure-8 on the ground that the stay has been passed contrary to the judgment of this Hon’ble Court passed in between State of Orissa and others-versus-Biharilal Barik vide judgment dated 27.06.2016 passed in W.P.(C) No.2831 of 2016.

A further direction be issued to the Opposite Parties to grant 3rd RACP benefit in favour of the Petitioner as per Finance Department resolution dated 06.02.2013 under Annexure-2 fixing his grade pay Rs.4800/- and accordingly revise his pension and the arrears as due and admissible may kindly be directed to be released in favour of the petitioner; within a date to be fixed by this Hon’ble Court.

And pass any other order/orders,

direction/directions as this Hon'ble Court may deem fit and proper;

A further direction be issued to release all arrears to the petitioners as per they are entitled, within a date to be fixed by this Hon'ble Court.

4. Learned counsel for the petitioner states that similar question had come up for consideration before a Division Bench of this Court in W.P.(C) No. 2831 of 2016 disposed of on 27.06.2016 (***State of Odisha and another v. Biharilal Barik and others***), which was arising out of an order dated 12.03.2015 passed by the State Administrative Tribunal in O.A. No. 520 of 2014 and this Court quashed the order dated 21.12.2013 (wrongly mentioned as 21.12.2012 in the judgment) and held that the applicants are eligible to get financial upgradation in the posts of GPEO/PA, ABDO/SDPO and DPO on completion of 10/20/30 years of service in the post of VLW under the RACP scheme. Therefore, the petitioner's case may be considered in the light of the said judgment.

5. It is also submitted by the learned counsel for the Petitioner that the Opposite Parties be directed to consider the case of the Petitioner as per the settled law decided in the case of ***State of Odisha-vrs.-Biharilal Barik*** decided by the Hon'ble Supreme Court in SLP (C) No.20358 of 2017 decided on 23.08.2017.

6. Considering the limited nature of prayer of the Petitioner and considering the fact of the case, the Principal Secretary to Government, Health and Family Welfare Department, Bhubaneswar (Opposite Party No.1) shall do well to consider the case of the Petitioner within a period of two months from the date of receipt of a certified copy of this order. The decision so taken shall be communicated to the Petitioner within a period of two weeks from the date of such decision. The case of the Petitioner shall be

considered by the Opposite Party No.1 in the light of the judgment in the case of **State of Odisha-vrs.-Biharilal Barik** decided by the Hon'ble Supreme Court in **SLP(C) No.20358 of 2017** decided on 23.08.2017. The writ petition stands disposed of directing the Competent Authority to dispose of the case of the petitioner by undertaking the entire exercise within a period of two months from the date of production of certified copy of this order.

Issue urgent certified copy as per Rules.

Jagabandhu

