

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.34349 of 2022**Durjaya Sahoo**

.....

Petitioner*Mr. A. Kanungo, Adv.*

Vs.

State of Odisha and others

.....

Opposite Parties*State Counsel***CORAM:****DR. JUSTICE B.R. SARANGI****ORDER****23.12.2022****Order No.**

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This matter is taken up through hybrid 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 be graciously pleased to issue a writ of mandamus directing the Opp. Parties No.1, 2 and 5 to extend the benefit of upgradation 1st up-gradation (10 years) w.e.f. 23.05.1993, 2nd up-gradation (20 years) in GP Rs.4600/- w.e.f. 23.05.2003, 3 rd up-gradation (30 years) in Grade Pay Rs.5400/- w.e.f. 23.05.2013 under the RACP Scheme of vide Finance Dept. Resolution dated 06.02.2013 (Annexure-1) followed by the letter dated 25.11.2013 (Annexure-2) giving complete benefit of the judgment and Law decided in W.P.(C) No.2831 of 2016 Biharilal’s case (State of Orissa and another vs. Biharilal Barik and others) disposed of on 27.06.2016 and the decision taken to extend the benefit vide letter dt.01.07.2020 under Annexure-5.

And further be pleased to pass any other order/orders, writ/writs, direction/directions appropriate under the circumstances as this Hon’ble Court deem fit & proper;

And for this act of kindness, the Petitioner as in duty bound shall ever pray.”

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 vs. 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 up-gradation 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 leaned 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 vs. Biharilal Barik***, decided by this Court in W.P.(C) No.20358 of 2017 on 23.08.2017.

6. Considering the limited nature of prayer of the Petitioner and considering the fact that the Commissioner-cum-Secretary to Govt., Department of Forest and Environment, Odisha, 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 vs. Biharilal Barik***, decided by this Court in W.P.(C) No.20358 of 2017 on 23.08.2017.

7. The writ petition thus stands disposed of. 8. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

