

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC No.40133 of 2021

Anish Chandra Ray and others *Petitioners*
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 No.

ORDER
25.04.2022

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard learned counsel for the Petitioners as well as learned counsel for the State. Perused the record.
 3. The present writ petition has been filed by the Petitioners 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 the order dated 03.11.2020 issued by the Opposite Party No.1 under Annexure-9 shall not be quashed/set aside as it has been issued contrary to the judgment passed by this Hon’ble Court in case of State of Orissa and others –vrs.-Biharilal Barik in W.P.(C) No.2831 of 2016 dated 27.06.2016 and after hearing the parties be pleased to quash/set aside the order dated 3.11.2020 under Annexure-9.

A further direction be issued to the opposite parties to release the 2nd and 3rd RACP benefits in favour of the petitioners as per their entitlement taking into consideration their length of service as per Finance Department resolution dated 06.02.2013 under Annexure-2 as well as judgment of this Hon’ble Court

passed in the case of State of Orissa and others vs. Biharilal Barik in W.P.(C) No.2831 of 2016 dated 27.06.2016 and the arrears as due and admissible may kindly be released in favour of the Petitioners.

And pass any other order/orders, direction/directions as this Hon'ble Court may deem fit and proper."

4. Learned counsel for the petitioners 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 petitioners' case may be considered in the light of the said judgment.

5. It is also submitted by the learned counsel for the Petitioners that the Opposite Parties be directed to consider the case of the Petitioners 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 Petitioners 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 Petitioners 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 Petitioners within a period of two weeks from

the date of such decision. The case of the Petitioners 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 No.20358 of 2017** on 23.08.2017. The writ petition stands disposed of directing the Competent Authority to dispose of the case of the petitioners 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.

RKS

