

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35614 of 2022

Hemanta Kumar Nayak ***Petitioners***

Mr. P.K. Mahapatra, Advocate

-versus-

State of Odisha and others

Opp. Parties

Mr. S.N. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

22.12.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Although this matter is listed for admission, on consent of both sides, the matter is taken up for final disposal.
3. Heard learned counsel for the Petitioner as well as learned Additional Government Advocate.
4. It is submitted by the learned counsel for the Petitioner that after the judgment of this Court in Biharilal Barik case, which was confirmed by the Hon'ble Supreme Court, the Government of Odisha issued a general approval order vide Panchayati Raj and Drinking Water Department Memo no.18586 dated 26.09.2017 wherein a clarification was given to all Collectors in respect of sanction of RACP in respect of VLW.
5. On perusal of the said letter, it appears that the Government was pleased to sanction RACP in respect of all eligible VLWs and has sanctioned financial upgradation in the post 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. Hence, the VLW are eligible to get Grade Pay of Rs.4200/-, Rs.4600/- and Rs.4800/- respectively on completion of 10, 20, and 30 years of service in the cadre of VLW with effect from 01.01.2013 under RACP Scheme. The aforesaid decision of the Government has the concurrence of the Finance Department vide UOR No.1969/PSF dated 15.09.2017. On the basis of the sanction accorded by the Government vide Memo No.26.09.2017 the present Petitioner who was working as VLW in the district of Boudh has been extended the benefits of RACP by District Office, Boudh vide Memo No.974 dated 17.11.2017. A copy of the Memo has been attached to the writ application under Annexure-2. On perusal of records, it appears that the Petitioner is placed at Sl.No.10 and the date of entry in to service is 01.06.1986 and he has been given sanction to receive 2nd RACP at the rate of Rs.4600/- with effect from 01.01.2013. Thereafter the Government of Odisha vide a General Order dated 01.07.2020 issued by the Finance Department to all the departments of Government extended the Grade Pay to all State Government employees under RACP scheme as per the principle laid down in Biharilal Barik's case.

6. Learned counsel for the Petitioner at this juncture submits that A.G. Orissa (AE), Odisha, Bhubaneswar is raising an objection with regard to disbursement of 2nd RACP amount after the Petitioner has retired from service on attaining the age of superannuation. Learned counsel for the Petitioner in this regard draws the attention of this Court to letter dated 23.09.2022 under Annexure-4. On perusal of the letter issued by the Senior Accounts Officer, Office of the A.G. Orissa, it appears that due to non-production of sanction for

implementation of order by the Administrative department towards grant of higher Grade Pay under RACP Scheme the case of the Petitioner has been returned for proper compliance. In the aforesaid context, learned counsel for the Petitioner submits that since there is approval by the concerned Administrative department, in a general order involving all the State Government employees, there is no necessity to grant approval in individual case. Moreover, Law laid down by this Court which was affirmed by the Hon'ble Supreme Court in Biharilal Barik's case, the State Government adopted the law laid down by judicial pronouncement in respect of the Government Employees working under the State of Odisha. It is further contended by the learned counsel for the Petitioner that the Office of A.G. is unnecessarily causing harassment to the petitioner and similarly situated persons by insisting upon production of approval in individual case. He further submits that the Petitioner, who is retired by now is being unnecessarily harassed by such administrative obstacle.

7. Learned counsel for the Petitioner referring to order of this Court passed in W.P.(C) No.13283 of 2022 and batch of others in respect of similarly placed employees of Subarnapur district submits that this Court directed the Collector, Subarnapur to examine the issue and write a letter to the A.G Odisha in favour of the Petitioner. Further, pursuant to the direction issued by this Court in the aforesaid case the Collector, Subarnapur wrote a letter to the A.G. and on the basis of such letter, the Petitioners have been extended the benefit of RACP scheme. In such view of the matter, the Petitioner prays for similar direction in the present case.

8. Mr. S.K. Patra appearing for A.G. Odisha submits that

administrative approval is necessary to disburse the Grade Pay under RACP scheme and other related benefits. Since there was no specific administrative approval in the present case, the case of the Petitioner has not been considered and the file has been returned for proper compliance.

9. Having heard learned counsel for the parties and upon a careful consideration of the present case and analysis of the legal position, this Court is of the considered view that in view of the general administrative approval granted by the State Government in the Panahcyati Raj & Drinking Water department no approval is required in individual cases. Therefore, following the direction issued by this Court in Nishi Ranjan Pattanaik-vrs.State of Orissa and others in W.P.(C) No.13283 of 2022 dated 27.06.2022 and batch of other cases this Court directs the Collector, Boudh to examine the case of the Petitioner and write a letter to the A.G. Odisha within a period of four weeks from the date of production of certified copy of this order. In the event such a letter is issued by the Collector, Boudh, the A.G. of Odisha shall do well to do the needful to sanction and disburse the retirement benefit in favour of the Petitioner within a period of two months from the date of receipt of letter from the Collector, Boudh.

10. With the aforesaid observation, the writ application stands disposed of.

(A.K. Mohapatra)
Judge