IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.4070 of 2020
CNR No. ODHC010084512020

Swapan Kumar Mohanty .... ***Petitioner***

Mr. S.K. Ojha, Advocate

-versus-

Union of India and others .... ***Opposite Parties***

Mr. B.S. Rayaguru, Senior Panel Counsel

CORAM:
SHRI JUSTICE B. P. ROUTRAY
MISS JUSTICE SAVITRI RATHO

ORDER
05.11.2026

Order No.

19. 1. Heard Mr. S.K. Ojha, learned counsel for the Petitioner and Mr. B.S. Rayaguru, learned Senior Panel Counsel for Opposite Parties 1, 2 and 3. Opposite Parties 4, 5 and 6 have though appeared through their lawyer, but no one representing them is present at the time of call.

2. The present writ petition is relating to challenge to the order of learned CAT dated 09.04.2019 passed in O.A. No. 579 of 2016. The claim of the Petitioner before learned CAT was for grant of seniority *inter-se* Opposite Parties 4, 5 and 6, along with the prayer to correct his recruitment year.

3. Learned Tribunal while allowed the prayer of the Petitioner to correct his recruitment year as 2009-10, but rejected the other prayer relating to *inter-se* seniority.

4. The learned Tribunal has framed three issues, which are reproduced below:

> "(a) Whether the office order dated 1.8.2016 (Annexure A/11) rejecting the representation of the applicant to modify the recruitment year of the applicant as IIT from 2008-09 to 2009-10 is sustainable under law;
>
> (b) Whether the claim of the applicant that he is senior to the respondent nos. 4 to 6 as Inspector of Income Tax is acceptable in view of the existing rules; and
>
> (c) Whether the order dated 1.4.2017 passed by the respondents to modify the seniority of the applicant from the recruiting year 2009-10 as per the order dated 1.8.2016 is sustainable."

The Tribunal while allowed Issue No.(a) and (c) in favour of the Petitioner, but refused the prayer of the Petitioner in respect of Issue No.(b) answering the same in negative.

5. The reasoning for answer to Issue No.(b) has been stated in paragraph-12 of the judgment of the Tribunal. It is stated by the Tribunal that after grant of 6th Pay Commission and implementation of the recommendation with effect from 01.01.2006, the previous pay scales of Rs.5,000 – 8,000 and Rs.5,500 – 9,000 were merged in one pay Band and so, it cannot be accepted that the Petitioner was getting higher pay than Opposite Parties 4,5 and 6 and thus his prayer is not entertained.

6. The feeder cadre for promotion to Inspector of Income Tax (IIT) comes from the Ministerial staff and Stenographers. The Petitioner was serving as a Stenographer in the scale of pay of Rs.5,500-9,000 before implementation of 6th Pay Commission.

Opposite Parties 4, 5 and 6 came from Ministerial cadre and were in the pay scale of Rs.5,000 – 8,000 prior to implementation of 6th Pay Commission. These are the un-disputed facts.

7. It is seen from the circular dated 10.09.1985 (Annexure-6) and clarification dated 12.12.1988 (Annexure-7) that, the instructions as quoted in said circulars in the matter of *inter-se* seniority upon promotion to the post of IIT would be that the person receiving higher scale of pay in the feeder grade will rank senior to those in the lower scale of pay in the same grading. The Tribunal by relying on these two circulars has given his finding that after merger of both pay scales in one pay Band in the 6th Pay Commission, the claim of the Petitioner for seniority *inter-se* Opposite Parties 4, 5 and 6 is unsustainable as the promotion was effected in the year 2008-09.

8. Mr. S.K. Ojha, learned counsel for the Petitioner brings to our notice the circular dated 13.09.2012 of the DOPT, Government of India, at Annexure-8. Upon Perusal of said circular, it reveals that further clarification to the earlier circular of the year 1985 and 1988 has been issued *inter-alia* to the effect that, where the posts in the new pay Band is same, the *inter-se* seniority will be reckoned taking into the previous scale of pay. Clause 2.(II) of said circular dated 13.09.2012 (Annexure-8) reads as follows:-

> "Where posts having different pay scales prior to 6th CPC recommendation and now after merger have come to lie in the same Pay Band with same Grade Pay, the inter-se seniority of all the employees will be fully maintained with employee in a higher pre-revised pay scale being placed higher vis-a-vis an employee in a lower pay scale. Within the same pre-revised

pay scale, seniority which existed prior to revision would continue."

9. In view of aforesaid clarification issued by the Government of India, the finding arrived by learned Tribunal with regard to receipt of one pay Band upon merging of both previous pay scales, is not found good on record. The parties did not bring to notice of the Tribunal about the present circular under Annexure-8. So, as per the clarification contained with regard to *inter-se* seniority in the matter of promotion to IIT from different feeder cadres, it seems clear that the employee receiving higher pre-revised pay scale should be placed higher to such other employee in the lower pay scale in the feeder cadre. Thus, we have no hesitation to allow the prayer of the Petitioner to treat him senior *inter-se* Opposite Parties 4, 5 and 6.

10. The writ petition is accordingly allowed with a direction to Opposite Parties 1, 2 and 3 to re-fix the seniority of the Petitioner accordingly. The impugned order of learned Tribunal is modified to this extent.

11. An urgent certified copy of this order be supplied on proper application.

(B.P. Routray)
Judge

(Savitri Ratho)
Judge

Signature Not Verified
Digitally Signed
Signed by: SUBHALAXMI PRIYADARSHANI SAHOO
Reason: Authentication
Location: Orissa High Court, Cuttack
Date: 05-Nov-2026 19:36:39