

(2023) 04 OHC CK 0254
In the Orissa High Court
Case No : Writ Petition (C) No. 11657 Of 2023

Arup Kumar Nanda

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 25-04-2023

Acts Referred:

Citation : (2023) 04 OHC CK 0254

Hon'ble Judges : A.K.Mohapatra, J

Bench : Single Bench

Advocate : Siddhartha Samal, Iswar Mohanty

Final Decision : Disposed Of

Judgement

A.K.Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Standing Counsel appearing for the State-Opposite Parties. Perused the writ petition as well as the documents annexed thereto.
3. The Petitioner has filed the present writ petition with the following prayer:-
"In the facts and under the circumstances of the case this Hon'ble court may be graciously pleased;
 1. To allow this petition.
 2. To quash the 3rd paragraph of order No.JES-PF-Irr-3128/2020-10795 dtd. 14.05.2020 under Annexure-2 series.
 3. To direct the Opp. Parties to grant the benefit of 3rd Financial Up-gradation under RACPS @ Rs.6,600/-w.e.f. 04.01.2013 in favour of the Petitioner with arrear.
 4. To pass any other(s), direction(s) as deem fit and just by this Hon'ble court."

4. It is submitted by the learned counsel for the Petitioner that pursuant to the order passed by the Odisha Administrative Tribunal in O.A. No.123 of 2019 dated 15.01.2019, the Petitioner was allowed Grade Pay of Rs.6600/-. However, vide order dated 14.05.2020 under Annexure-2 Series enhanced Grade Pay of Rs.6600/- granted pursuant to the Tribunal's order was confined upto 3.1.2013. Thereafter, the Petitioner was allowed to revised Grade Pay of Rs.5400/- in PB-2, Scale of Pay of Rs.9,300-34,800/- with protection of differential pay in the shape of RPP to be merged in subsequent increment consequent upon restructuring of OES cadre bringing the post of Deputy Executive Engineer in the Grade Pay of Rs.5400/- as the 3rd promotional post of Junior Engineer.

5. Learned counsel for the Petitioner at this juncture submitted that the para-3 of order dated 14.05.2020 under Annexure-2 was challenged by another person, namely, Sunil Kumar Mohapatra in respect of the Works Department having a very same para-3 in the impugned order in his case dated 28. 02.2020. This Court in W.P.(C) No.16290 of 2020 while adjudicating the issue vide judgment dated 01.03.2023 has come to a conclusion that the 3rd paragraph of order dated 28. 02.2020 in the case of above named Sunil Kumar Mohapatra, which is identical to the 3rd paragraph of the case of the Petitioner in order dated 14.05.2020 under Annexure-2 Series has been held to be illegal and arbitrary and, accordingly, the said paragraph was quashed and the Petitioner in that case was granted Grade Pay of Rs.6,600/-.

6. Learned counsel for the Petitioner further contended that vide order dated 27th January, 2023 similar benefit of Grade Pay of Rs.6600/- has also been allowed in respect of 33 numbers of Civil Engineers who have completed 20 and 30 years of service respectively in a single cadre as on 1.1.2013. In the light of the aforesaid factual background, the Petitioner approached the Opposite Party No.2-Engineer-in-Chief, Water Resources, Odisha, Secha Sadan, Bhubaneswar by filing a representation dated 17.03.2023 under Annexure-3 to the writ petition. It is stated by the learned counsel for the Petitioner that the same is pending for consideration by the Opposite Party No.2.

7. Learned Additional Standing Counsel appearing for the State-Opposite Parties, on the other hand, submitted that since the Petitioner has approached the Opposite Party No.2 by filing a detailed representation, the Opposite Party No2 be directed to consider such representation in accordance with law within a stipulated period of time, to which, he has no objection.

8. Considering the submission made by the learned counsel for the respective parties and upon a careful consideration of the background facts as well as the judgment by a coordinate Bench of this Court in Sunil Kumar Mohapatra v. State of Odisha & Others (W.P.(C) No.16209 of 2020 decided on 01.03.2023), this Court deems it proper to dispose of the writ petition by directing the Opposite Party No.2 to consider the representation of the Petitioner dated 17.03.2023 under Annexure-3 to the writ petition keeping in view the decision dated 27th January, 2023 as well as the judgment by a coordinate Bench of this Court in

Sunil Kumar Mohapatra's case (supra) and take a decision on the same within a period of two months from the date of communication of a certified copy of this order by the Petitioner. Further, it is directed that in the event the Opposite Party No.2 comes to conclusion that the Petitioner stand on similar footing with the above named Sunil Kumar Mohapatra and persons who have been given such benefits vide order dated 27th January, 2023, then the similar benefits be extended to the Petitioner within a period of six weeks from the date taking decision on such representation. Any decision taken on such representation shall be communicated to the Petitioner within two weeks thereafter.

9. With the aforesaid observation and direction, this writ petition stands disposed of.

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