
(2017) 01 OHC CK 0039
In the Orissa High Court
Case No : Writ Petition (C). No. 18236 of 2008

Braja Sundar Panda

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 06-01-2017

Acts Referred:

Constitution of India, 1950 — Article 226, Article 227

Citation : (2017) 123 CutLT 632 : (2017) 1 ILRCuttack 329

Hon'ble Judges : Dr. B.R. Sarangi, J.

Bench : Single Bench

Advocate : M/s. K. Ray and A.K. Baral, Advocates, for the Petitioners; M/s. K.P. Nanda, D. Panigrahi, D. Das and A. Mohanty, Advocates, for the Opposite Party Nos. 3 and 5; Mr. B. Bhuyan, Addl. Govt. Advocate, for the Opposite Party Nos. 1, 2 and 4

Final Decision : Allowed

Judgement

Dr. B.R. Sarangi, J.—The petitioners, who are employees of Bhubaneswar Municipal Corporation, were initially appointed as N.M.R. against the vacant sanctioned posts. They had, after working as such for a quite long period, approached this Court in OJC Nos. 1036 and 5851 of 1992 claiming for regularization and in compliance of the order passed by this Court their services have been regularized and they are continuing in service till date. As per the policy of the State Government, the Orissa Revised Scale of Pay admissible to the State Government employees is also extended to the employees of the urban local bodies. Accordingly, the benefit of revised scale of pay pursuant to Fourth Pay Commission Report was extended to the petitioners at par with their counterparts in the State Government. When Fifth Pay Commission Report came, pursuant to the same, the benefit of Orissa Revised Scale of Pay Rules, 1998 was extended to the State Government employees, but the same was not immediately extended to the petitioners. However, subsequently pursuant to resolution passed on 13.10.2006, the benefit of Revised Scale of Pay Rules, 1998 was extended to the employees of Bhubaneswar Municipal Corporation w.e.f.

01.01.1996 notionally and the actual financial benefit was extended w.e.f. 01.01.2006. The claim of the petitioners is that the benefit of Orissa Revised Scale of Pay Rules, 1998 should have been extended w.e.f. 01.01.1996. Therefore, they have approached this Court challenging the resolution dated 13.10.2006 for extension of actual financial benefit w.e.f. 01.01.1996 instead of 01.01.2006.

2. Mr. K. Ray, learned counsel for the petitioner states that there is no valid and justified reasons to extend the actual financial benefits w.e.f. 01.01.2006 instead of 01.01.1996 as per the Orissa Revised Scale of Pay Rules, 1998. It is further contended that the resolution dated 13.10.2006 was under challenge before this Court in W.P.(C) Nos. 15359, 15360 and 15361 of 2008 and this Court vide order dated 06.04.2012 quashed the said resolution dated 13.10.2006 and directed the opposite parties to compute the financial benefits and pay the same to the petitioners therein within three months. The petitioners herein having stood at par with the petitioners in the disposed of writ petitions, the benefit should be extended to them in compliance of the order passed by this Court on 06.04.2012.

3. Mr. K.P. Nanda, learned counsel appearing for opposite parties no.3 and 5 contended that in view of the counter affidavit filed on 26.10.2009, the benefit as claimed in the writ petition to quash the resolution dated 13.10.2006 is not admissible. It is further contended that the reliance placed on the order dated 06.04.2012 passed in W.P.(C) Nos. 15359, 15360 and 15361 of 2008 has come after filing of the counter affidavit by the opposite parties. Therefore, since this Court has already quashed the resolution dated 13.10.2006 vide order dated 06.04.2012, the case of the petitioners would be examined by the authority in the light of the said order.

4. Mr. B. Bhuyan, learned Addl. Govt. Advocate states that the State Government has extended the benefit of Orissa Revised Scale of Pay Rules, 1998 giving effect from 01.01.1996 and, as such, the same is applicable to the employees of State Government as well as other authorities including local bodies in the State. The benefit having been extended pursuant to resolution dated 13.10.2006 to the employees of the Bhubaneswar Municipal Corporation, and subsequently the said resolution having been quashed vide order dated 06.04.2012, the case of the petitioners shall be considered in the light of the said order.

5. Having heard learned counsel for the parties and after going through the records, with the consent of learned counsel for the parties, this matter is being disposed of finally at the stage of admission.

6. The undisputed facts being that the petitioners are the employees of Bhubaneswar Municipal Corporation and they have been extended with the benefits of Revised Scale of Pay w.e.f. 01.01.2006 instead of 01.01.1996 pursuant to resolution dated 13.10.2006 vide Annexure-2. Now they have claimed that the benefit of Orissa Revised Scale of Pay Rules, 1998 should be extended w.e.f. 01.01.1996 at par with the counterparts of the State

Government employees, and more particularly fixation of pay notionally w.e.f. 01.01.1996 and actually extended such benefit w.e.f. 01.01.2006 has no valid and justified reasons for the same. Nothing has been indicated in the resolution dated 13.10.2006 that as to why such benefit has been extended w.e.f. 01.01.2006 instead of 01.01.1996. In absence of any reason thereof, extension of such benefit cannot have any basis, and more so, such resolution having been quashed by this Court in W.P.(C) Nos. 15359, 15360 and 15361 of 2008 vide order dated 06.04.2012, nothing more remains to be adjudicated at this stage, save and except the benefit has to be extended to the petitioners w.e.f. 01.01.1996 at par with their counterparts in the State Government and also similarly situated corporation employees, who are the petitioners in the aforementioned disposed of writ petitions.

7. In *Purushotam Lal v. Union of India*, AIR 1973 SC 1088, the apex Court held that revised pay scales recommend by Pay Commission, implementation in respect of some particular category of servants from a date later than that recommended amounts to violation of Articles 14 and 16.

8. In view of the law laid down by the apex Court, applying the same to the present context, as this Court has already quashed the resolution dated 13.10.2006 in W.P.(C) Nos. 15359, 15360 and 15361 of 2008, this Court directs the opposite parties to compute the financial benefits and pay the same to the petitioners within a period of three months from the date of passing of the order at par with petitioners in aforementioned disposed of writ petitions.

9. The writ petition is allowed to the extent indicated above. No order to cost.