
(2005) 08 OHC CK 0018
In the Orissa High Court
Case No : Writ Petition (C) No.4832 of 2005

Dibakar Mishra

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 08-08-2005

Acts Referred:

Citation : (2005) 2 OLR 503

Hon'ble Judges : B.P. Das, J;A.K. Samantaray, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner and the learned counsel for the Schools & Mass Education Department.

2. The case of the petitioner in this writ petition is that he is a retired non-Government Primary School Teacher. He retired from service with effect from 31.3.1989 after attaining the age of superannuation while discharging his duties as Head Pandit in Kumaratanka U.P. School under Aul Circle. He claims the benefit under the Government of Orissa, Finance Department Office Memorandum dated 22.5.1995 wherein the benefit of time bound advancement scale of pay to the Aided Non-Government Educational Institutional Employees was introduced. According to the Scheme, the employees whose maximum pay did not exceed Rs.2,975/- in the revised scale of pay of 1985 and who completed 15 years of service in their posts on 1.1.1985 were eligible for the appropriate advancement pay scales. According to the petitioner, he is a retired Aided Non-Government Educational Institution employee and his maximum pay scale was only Rs.988/- in the revised scale of pay of 1985 and he had completed more than 15 years of service in his post on 1.1.1985 for which he is entitled to get the benefit under the aforesaid Finance Department Office Memorandum dated 22.5.1995.

3. In our view, though the petitioner's salary was revised from time to time, the

stagnation so referred in the Resolution of the Finance Department is stagnation in the post. In this regard, our attention was drawn to a decision of this Court rendered in O.J.C. No.125 of 1992 disposed of on 2.5.1995 wherein it was held that the petitioner having completed 15 years of service as on 1.1.1985 in the same grade or post he became entitled to get the advancement scale of pay. The aforesaid decision is followed in the decision, reported in Balabhadra Sarangi Vs. State of Orissa and Others, . So the point involved in this case is no more res Integra. In the present case, it appears, there is nothing to dispute with the claim of the petitioner as he has completed more than 15 years of service, in his post as on 1.1.1985 and his maximum scale of pay. So the revision of his scale of pay will not stand as a bar for getting the benefit under the Finance Department Office Memorandum dated 22.5.1995 and the petitioner might have got different scale of pay due to the revision in the scale of pay but he was holding the same post and the grade. Therefore, he is entitled to the benefit under the advancement scale of pay.

4. We direct the opposite parties to grant advancement scale of pay in favour of the petitioner as he has completed 15 years of service. Since the petitioner has already retired from service, his pay shall be fixed and his pension shall be calculated on the basis of the last pay drawn with all consequential benefits within a period of six months from the date of communication of the order.

5. The writ application is allowed.

6. Urgent certified copy of this order be granted as per rules.