

(2007) 04 OHC CK 0037

In the Orissa High Court

Krushna Chandra Mohanty

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 13-04-2007

Acts Referred:

Citation : (2007) CLT 705 Supp : (2007) 1 OLR 698

Hon'ble Judges : I. Mahanty, J;B.P. Das, J

Bench : Division Bench

Judgement

1. Heard Mr. P.K. Das, learned Counsel for the petitioner and learned Counsel for the School and Mass Education Department.

2. The grievance of the petitioner in this writ application is that though he is entitled to get the benefit of Time Bound Advancement Scale of pay with effect from 1.1.1985, the same has not been given to him.

3. Counter affidavit has been filed by O.P. Nos. 1 to 4 in this writ application.

4. Though various grounds were taken in this writ application, the main argument of the learned Counsel for the School & Mass Education Department is that since the petitioner has already retired from service on 30.3.1988, he cannot be granted the benefit of Time Bound Advancement Scale of pay as per the resolution of the Government in Education & Youth Service Department dated 22.7.1989 vide Annexure-A/4 to the counter affidavit. Our attention is drawn to the order dated 6.2.2006 passed in W.P.(C) No. 5658 of 2005 Natabara Patra v. State of Orissa and Ors. in which such stand was taken and this Court disposed of the said writ petition with the direction that the petitioner therein is entitled to get the said benefit in view of the decisions of this Court in Balabhadra Sarangi Vs. State of Orissa and Others, In the aforesaid case, it was held that the petitioner having completed fifteen years of service as on 1.1.1985 in the same grade or post, he became entitled to get Time Bound Advancement Scale of pay. It was further decided in the aforesaid case that to get the benefit under the Time Bound Advancement Scale of pay, there should be stagnation in the post

even if there is regular enhancement of salary by way of increments.

5. In the present case, the petitioner claims to have worked initially under a School managed by the District Board and thereafter from 1961 in the School, which was taken over by the Government, and for all practical purposes, the petitioner became a teacher in Government School. The Orissa Revised Scales of Pay Rules also makes a provision for extension of the said benefits to the teachers who were working in the Zilla Boards. Clause 57 of the Resolution dated 22.8.1985 of the Finance Department provides that the revised scales of pay will also be extended to the related categories of posts under the Local Bodies, Aided Educational Institutions and Work-Charged establishment and the concerned Administrative Department will take steps to issue necessary Government Orders in the matter. There is no dispute to the claim of the petitioner as he had completed more than fifteen years of service as on 1.1.1985 and had reached his maximum scale of pay. So the revision of his scale of pay will not stand as a bar for getting the benefit stipulated in the aforesaid Finance Department Office Memorandum dated 22.8.1985 and the petitioner might have got different scales 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 of the Time Bound Advancement Scales of Pay.

6. We have, therefore, no hesitation to direct the O.Ps. to grant advancement scale of pay in favour of the petitioner as he had completed fifteen 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 this order.

7. The objection as raised by the State in the present case on the basis of the resolution dated 22.7.1989 was also raised in W.P.(C) No. 5658 of 2005 Natabara Patra v. State of Orissa and Ors. but the same was considered and overruled and hence the same objection does not subsist and does not stand on the way of granting the relief as indicated above.

8. The writ petition is accordingly disposed of.