



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.1407 of 2024

A. Balakrishna Rao

.....

Petitioner

Mr. M.K. Khuntia, Advocate

-versus-

State of Odisha & Ors.

.....

Opposite Parties

Mr. P.K. Panda, ASC

CORAM:

THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

26.02.2026

Order No.03

1. This matter is taken up through hybrid mode.
2. Heard Mr. M.K. Khuntia, learned counsel appearing for the Petitioner and Mr. P.K. Panda, learned Addl. Standing Counsel appearing for the Opp. Parties.
3. The present writ petition has been filed inter alia with the following prayer:-

“It is therefore prayed that the Hon'ble court may graciously be pleased to admit the case and call for the records and after hearing both the parties pass the following reliefs:

i) To quash the order dtd.6.11.2023 under Annexure-14.

ii) To direct the Opposite Parties to grant 2nd RACP to the petitioner w.e.f. 18.8.2015 and release arrear salary consequent upon grant of 2nd RACP w.e.f. 18.8.2015.

And pass such other order/orders as would be deemed fit and proper.



And for this act of kindness, the petitioner as in duty bound shall ever pray.”

4. It is contended that Petitioner entered into service on 18.08.1995 and while so continuing taking into account the notification issued by the Finance Department on 06.02.2013 under Annexure-4, Petitioner was extended with the benefit of 1st RACP by taking his date of appointment as 18.08.1995, w.e.f.01.01.2013. However, on the ground that Petitioner since has refused the benefit of promotion, benefit of 1st RACP so sanctioned in his favour vide order dtd.18.09.2014 w.e.f.01.01.2013 was cancelled vide order dtd.05.12.2015 under Annexure-7.

4.1. It is contended that challenging such order passed on 05.12.2015 under Annexure-7, Petitioner approached the Tribunal by filing O.A. No. 219(C) of 2016. The said application after being transferred to this Court in W.P.C.(OAC) No. 219 of 2026, was disposed of vide order dtd.21.12.2022 under Annexure-8, inter alia with the following observation and direction so contained in Para 17 & 18 of the order:-

“17. The Petitioner became entitled to 1st financial upgradation under RACPS for his service (in absence of promotion) from 18.08.1995 to 17.08.2005. Accordingly, he became eligible for RACP benefit from 01.01.2013 as the scheme was brought into effect from 01.01.2013. It needs to be understood that the entitlement for financial upgradation is based on the period of service and the manner in which it was discharged. The benefit under the scheme for such entitlement is to be given with effect from 01.01.2013. The scheme cannot be construed in a way to mean that the entitlement accrued on 01.01.2013.



18. In conspectus of the facts narrated hereinabove, this Court is of the view that the order dated 05.12.2015 passed by the Opposite Party No.3 is arbitrary and erroneous and, is hereby set aside. The Petitioner's claim, being devoid of any infirmity, is accordingly allowed."

4.2. Learned counsel appearing for the Petitioner contended that order passed by this Court on 21.12.2022 was duly implemented, by extending the benefit of 1st RACP w.e.f.01.01.2013 by taking the initial date of appointment of the Petitioner as 18.08.1995, vide order dtd.18.01.2023 under Annexure-9. It is accordingly contended that since in terms of the order passed by this Court under Annexure-8, Petitioner was held entitled to get the benefit of 1st RACP w.e.f.01.01.2013 by taking his date of appointment as 18.08.1995 as per the notification issued on 06.02.2013 under Annexure-4, Petitioner also became entitled to get the benefit of 2nd RACP on completion of 20 years of continuous service, which falls due on 18.08.2015.

4.3. However, after extending the benefit of 1st RACP w.e.f.01.01.2013 vide order dtd.18.01.2023 under Annexure-9 pursuant to the order passed by this Court under Annexure-8, Petitioner's claim to get the benefit of 2nd RACP w.e.f.18.08.2015 when was not considered, he made a representation before Opp. Party No. 3 on 16.02.2023 under Annexure-10. As the same was not considered, Petitioner again made a representation under Annexure-13 reiterating his claim to get the benefit of 2nd RACP w.e.f.18.08.2015. But the same was rejected vide the impugned order dtd.06.11.2023 under Annexure-14, on the ground that since Petitioner refused to avail the benefit of promotion, in terms of Finance Department Resolution dtd.06.02.2013, Petitioner is not



eligible and entitled to get the benefit of 2nd RACP w.e.f.18.08.2015.

4.4. It is also contended that such a claim was rejected on another ground that Petitioner in the meantime was extended with the benefit of 2nd MACP w.e.f.24.06.2023.

4.5. Learned counsel appearing for the Petitioner contended that extension of the benefit of 1st RACP so allowed in favour of the Petitioner w.e.f.01.01.2013 vide order dtd.18.09.2014 when was cancelled vide order dtd.05.12.2015 under Annexure-7, the same was interfered with by this Court in its order dtd.21.11.2022 under Annexure-8. Order passed by this Court was duly implemented by restoring the benefit of 1st RACP in favour of the Petitioner w.e.f.01.01.2013 vide order dt.18.01.2023 under Annexure-9. On such restoration of the benefit of 1st RACP w.e.f.01.01.2013, Petitioner raised the claim to get the benefit of 2nd RACP, which falls due on 18.08.2015. But without proper appreciation of the order passed by this Court under Annexure-8 and its compliance under Annexure-9, claim of the Petitioner was rejected on self-same ground vide order dt.06.11.2023 under Annexure-14, which was earlier interfered with by this Court in its order under Annexure-8. Making all these submissions, learned counsel appearing for the Petitioner contended that this Court with quashing of the impugned order, may direct Opp. Party No. 3 to extend the benefit of 2nd RACP in favour of the Petitioner w.e.f.18.08.2015.

5. Learned Addl. Standing Counsel on the other hand while supporting the impugned rejection, made his submission basing on the stand taken in the counter affidavit so filed by Opp. Party No. 3.



Relying on the stand taken in Para 12 and 13 of the counter affidavit, it is contended that since Petitioner refused regular promotion on 25.07.2008 and gave his willingness to avail such benefit on 31.05.2016 i.e. after 7 years 10 months and 6 days, in terms of Para 16 of the Finance Department Resolution dtd.06.02.2013 and clarification at Point No. 5 of the letter dtd.20.01.2014 under Annexure-F/3, Petitioner was not held eligible to get the benefit of 2nd RACP w.e.f.18.08.2015.

5.1. It is also contended that since by the time Petitioner made such a claim, he had already been extended with the benefit of 2nd RACP w.e.f.16.08.2023, claim of the Petitioner has been rightly rejected. Stand taken in Para 12 & 13 of the counter affidavit reads as follows:-

“12. That it is further humbly submitted that on 30.05.2008, the petitioner forgone his promotion to the rank of Lance Naik and only opted to continue at DDS, CID, CB, Cuttack and on 31.05.16 the petitioner submitted his willingness for promotion to the rank of Havildar in DDS,CID CB, Cuttack. A copy of the Application dt.31.05.2016 of the petitioner is annexed herewith as Annexure-J/3.

13. That it is humbly submitted that, after disposal of 1st RACP case of the petitioner, 2nd MACPS case considered suitable w.e.f. 24.06.2023 taking into account of period of debarment due to refusal of regular promotion on 25.07.2008 and willingness for promotion dt.31.05.2016 i.e. 7 years 10 months 06 days in terms of Para-16 of F.D Resolution dtd. 06.02.2013, clarification Point No.5 dtd.20.01.2014 of ORSP Rules, 2008 and under Rule-13(xiii) of ORSP Rules, 2017 due to refusal of regular promotion vide O.O No.190/SAP dt.25.07.2008. The pay of the applicant has been fixed at Rs.



44,800/- w.e.f.24.06.2023 with increment in Cell-20, Level-7 under 2nd MACP scheme vide CB D.O No.693 dated 16.08.2023. A copy of the D.O No.693 dated 16.08.2023 is annexed herewith as Annexure-K/3.”

5.2. It is accordingly contended that Petitioner's claim after due consideration since has been rejected vide the impugned order dtd.06.11.2023 under Annexure-14, it requires no interference.

6. Having heard learned counsel appearing for the Parties and considering the submission made, this Court finds that Petitioner entered into service on 18.08.1995. Taking his initial date of appointment as 18.08.1995, Petitioner after issuance of the notification dtd.06.02.2013 under Annexure-4, was extended with the benefit of 1st RACP w.e.f.01.01.2013 vide order dtd.18.09.2014. However, on the ground that Petitioner has refused promotion, the said benefit when was cancelled vide order dtd.05.12.2015 under Annexure-7, the same was challenged before this Court in W.P.C.(OAC) No. 219 of 2016. This Court vide order dtd.21.12.2022 under Annexure-8, while quashing order dtd.05.12.2015 held the Petitioner entitled to get the benefit of 1st RACP w.e.f.01.01.2013.

6.1. Pursuant to the said order, benefit of 1st RACP w.e.f.01.01.2013 was restored in favour of the Petitioner vide order dtd.18.01.2023 under Annexure-9. Since benefit of 1st RACP so sanctioned in his favour w.e.f.01.01.2013 and withdrawn vide order dtd.05.12.2015 under Annexure-7, was interfered with by this Court and in compliance to the said order, Petitioner was extended with the benefit of 1st RACP w.e.f.01.01.2013 by taking his date of initial appointment as 18.08.1995, it is the view of this Court that



on the face of such compliance, Petitioner became eligible to get the benefit of 2nd RACP on completion of 20 years of continuous service, which falls due on 18.08.2015.

6.2. Therefore, it is the view of this Court that the ground on which Petitioner's claim has been rejected, is not sustainable in the eye of law. Accordingly, while quashing order dtd.06.11.2023 so issued under Annexure-14 by Opp. Party No. 2, this Court directs the said Opp. Party to extend the benefit of 2nd RACP in favour of the Petitioner w.e.f.18.08.2015 as due and admissible. This Court directs Opp. Party Nos. 2 & 3 to complete the entire exercise within a period of 3 (three) months from the date of receipt of this order.

7. The writ petition accordingly stands disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Sneha