



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.7912 of 2025

Akshaya Kumar Dalei

.....

Petitioner

Represented By Adv. -
Nihal Rath

-versus-

1) State Of Odisha

.....

Opposite Parties

2) Principal Secy. To Govt. Of
Odisha,finance
3) Auditor General ,cooperative
Societies,odisha

Represented By Adv. –
Mr.M.R.Mohanty,
AGA

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

26.03.2025

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Government Advocate. Perused the Writ Petition as well as the documents annexed thereto.
3. The Petitioner has filed the present Writ Petition with the following prayer :

“ It is, therefore, most humbly prayed that this Hon'ble Court may be pleased to admit the writ application, issue rule Nisi calling upon the Opp.Parties to show cause as to why the prayers made hereunder be not allowed, upon showing insufficient cause/no cause make the said Rule absolute, issue writ/writs in the nature of

- i) *Mandamus directing the Government of Odisha, Finance Department to include the employees*



working under the public sectors, autonomous bodies, etc. under the Government of India on their recruitment under the State Government to extend the benefit of pay protection in the office memorandum dated 03.12.2019 as at Annexure-5.

- ii) The Hon'ble Court may be further pleased to direct the Opp.Parties to restore the benefit of protection of pay in favour of the Petitioner which he has received in terms of Office Order dated 13.09.2021 and 28.09.2021 under Annexures-8 & 9 by declaring the present impugned orders dated 14.02.2025 at Annexure-12 and 10.03.2025 at Annexure-13 by declaring the same illegal, arbitrary and discriminatory and to quash the same.*
- iii) And/or may pass such other writ/writs, order/orders, direction/directions as this Hon'ble Court may think fit and proper for the ends of justice."*

4. It is stated by the learned counsel for the Petitioner that initially the Petitioner was appointed as Trained Graduate Teacher in Jawahar Navodaya Vidyalaya, Koraput and accordingly, he joined on 01.07.20087. Thereafter, the Petitioner participated in the selection process conducted by the OPSC and accordingly he participated in the interview after getting NOC from the Deputy Commissioner, Navodaya Vidyalaya Samiti on 13.12.2016. Similarly, another NOC was issued to the Petitioner to appear in the main examination on 18.05.2018. While the matter stood thus, Cooperation Department issued a Notification bearing No.3576 dated 20.6.2019 under Annexure-3 whereunder the Petitioner was appointed under Odisha Co-operative Service, Group-B. The Petitioner joined in service pursuant to the appointment letter under Annexure-3 by tendering his resignation on 11.07.2019. Accordingly, he was relieved from duty on



12.07.2019. Finally, on 12.07.2019 the Petitioner joined in the Directorate of Cooperative Audit, Odisha. While the Petitioner was discharging his duty in the Office of the Directorate of Cooperative Audit, Odisha, the Government of Odisha in Finance Department issued Office Memorandum No.40530 dated 03.12.2019 with regard to pay protection under Annexure-5 to the Writ Petition. On the basis of the information provided by the Jawahar Navodaya Vidyalaya, Koraput dated 08.09.2020 the Government in Cooperation Department approved the pay protection of the Petitioner at Rs.62,000/- at level-10 with effect from 12.07.2019 vide their letter dated 08.09.2020. Finally, vide order dated 28.09.2021 the Directorate of Cooperative Audit, Odisha, the Petitioner was extended with the pay protection as has been mentioned hereinabove.

5. While the matter stood thus, on 19.11.2024 the Petitioner was intimated that he is required to appear before the Commissioner-cum-Secretary to Government in Cooperation Department (Opposite Party No.1) on 26.11.2024 at 1 P.M. and to present his case with regard to fixation of his pay. Learned counsel for the Petitioner contended that on 26.11.2024 the Petitioner appeared before the Opposite Party No.1 and submitted representation and documents in support of his contention. He also contended that the Opposite Party no.1 without considering the representation of the Petitioner and without further referring to the documents filed by the Petitioner vide order dated 14.02.2025 has passed order withdrawing the benefit of pay protection granted in favour of the Petitioner. On the basis of the order dated 14.02.2025 the Auditor General, Cooperative Societies, Odisha passed a consequential order



dated 10.03.205 as a result of which the pay protection which was initially granted in favour of the Petitioner pursuant to the Office Memorandum dated 03.12.2019. Being aggrieved by such conduct of the Opposite Parties, the Petitioner has approached this Court by filing the present Writ Petition.

6. Learned counsel for the Petitioner at this juncture contended that although the Petitioner appeared before the Opposite Party No.1 and submitted a detailed representation along with all supporting documents, however, the Opposite Party No.1 while passing the impugned order dated 14.02.2025 under Annexure-12 has not taken into consideration the grounds raised in his representation as well as he has not taken into consideration the documents submitted by the Petitioner. In such view of the matter, learned counsel for the Petitioner contended that the impugned order dated 14.02.2025 under Annexure-12 is illegal and not sustainable in law.

7. Learned Additional Government Advocate on the other hand contended that before withdrawing the pay protection benefit which was earlier granted in favour of the Petitioner, the Opposite Party No.1 provided opportunity to the Petitioner and after considering his grievance the Opposite Party no.1 has finally passed order on 14.02.2025 withdrawing the benefit of pay protection. In such view of the matter the Opposite Party No.1 has not committed any illegality and the impugned order under Annexure-12 remains unimpeachable and the present Writ Petition being devoid of merit be dismissed.

8. Having heard learned counsels for the respective parties, on careful examination of the materials on record, further taking note of the submissions made by the learned counsels appearing



for the parties, this Court on a careful scrutiny of the representation submitted by the Petitioner before Opposite Party no.1 on 26.11.2024 as well as the documents placed on record, observes that the Opposite Party no.1 while passing the impugned order under Annexure-12 has not taken into consideration the grounds raised by the Petitioner and the documents placed on record at the instance of the Petitioner. In such view of the matter, this Court has no hesitation to come to a conclusion that the order Annexure-12 is a non-speaking order. Therefore, the same is unsustainable in law. Accordingly the impugned order under Annexure-12 is hereby quashed and the matter is remanded to Opposite Party No.1 to reconsider the matter and pass a reasoned and speaking order considering the grounds taken in the representation as well as the documents placed on record at the instance of the Petitioner. The grievance of the Petitioner be disposed of by passing a speaking and reasoned order taking into consideration the specific grounds raised in his representation. The entire exercise be carried out within two months from the date of communication of this order. Final order be communicated to the Petitioner within 10 days from the date of taking such decision.

9. With the aforesaid observation the Writ Petition stands disposed of.

10. Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

RKS

Signature Not Verified

Digitally Signed
Signed by: RAMESH KUMAR
SINGH
Reason: Authentication
Location: High Court of Orissa
Date: 28-Mar-2025 16:25:09