

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 33539 of 2021

And

I.A. No. 15448 of 2021

*NALCO retired officers' association
and another*

.....

Petitioners

Mr. S. Palit, Adv.

Vs.

Union of India and others

.....

Opposite Parties

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

11.03.2022

Order No.

2.

This matter is taken up through hybrid mode.

2. Mr. M.K. Pati, learned Central Government Counsel files memo of appearance on behalf of opposite party no.1-Union of India in Court today, which is taken on record.

3. Heard Mr. S. Palit, learned counsel for the petitioners and Mr. M.K. Pati, learned Central Government Counsel for the Union of India.

4. Assailing the order dated 21.06.2021 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 619 of 2018 under Annexure-13, the petitioners have approached this Court by filing the present writ petition.

5. Mr. S. Palit, learned counsel for the petitioner contended that the petitioners had approached the tribunal by filing O.A. No.619 of 2018 challenging the circular dated 07.04.2018 under Annexure-11 issued by the opposite parties capping the medical benefits with retrospective effect. It is contended that the medical benefits had been extended to the petitioners in terms of the

circular dated 12.01.2018, by which revision of pay scales in respect of Board Level and below Board Level Executives w.e.f. 01.01.2017 had been prescribed. But just after three months, vide Annexure-11 dated 07.04.2018, the same was withdrawn without giving opportunity of hearing to the petitioners. It is further contended that paragraphs-10 and 11 of the judgment dated 21.06.2021 rendered in the case of **Premium Granites v. State of Tamil Nadu**, (1994) 2 SCC 691, and the ratio decided in **State of Punjab v. Ram Lubhaya Bagga**, (1998) 4 SCC 117 on which reliance was placed by the tribunal, are not applicable to the present case, as the same were in the context that policy decision cannot be interfered with by the Court. More so, the case of **Premium Granites** (supra) relates to judicial review of the policy decision, whereas the judgment in **Ram Lubhaya Bagga** has been considered on a different context, which is not applicable to the present case. Thereby, the tribunal has committed gross error by applying the said judgments and denying the benefits to the petitioner, vide impugned order dated 21.06.2021 under Annexure-13.

6. In the opinion of this Court, the matter requires consideration.

7. Issue notice to the opposite parties in the main case as well as in the interlocutory application.

8. An extra copy of the writ petition be served on Mr. M.K. Pati, learned Central Government Counsel appearing for opposite party no.1 within three working days enabling him to obtain instructions or file counter affidavit.

9. Steps for service of notice on the opposite parties no.2, 3

and 4 by registered post with A.D. be taken within three days.
Office shall send notice to the said opposite parties fixing an early returnable date.

(DR. B.R. SARANGI)
JUDGE

Ashok/Puspa

(SAVITRI RATHO)
JUDGE

