

[IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11015 of 2005

Pradeep Kumar Patnaik

....

Petitioner

Mr. K.K. Swain, Advocate

-versus-

State of Orissa and others

....

Opposite Parties

Mr. D.R. Mohapatra, Senior Standing Counsel

CORAM:

THE CHIEF JUSTICE

JUSTICE R.K. PATTANAİK

ORDER
21.02.2022

Order No.

12. 1. The challenge in the present petition is to an order dated 20th March 1997 in O.A. No.237 (C) of 1995 and another order dated 16th March 2005 passed in O.A. No.2315 (C) of 2004 by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack (OAT) and a consequential order dated 4th July 2005 passed by the Department of School and Mass Education, Government of Odisha.
2. Mr. Swain, learned counsel appearing for the Petitioner repeatedly urges before the Court that he is challenging the above orders to which the Petitioner was not a party only because of certain observations therein which according to him are prejudicial to the Petitioner.
3. The Petitioner got appointed in a Class-IV post in the Government on the death of his father under the Rehabilitation

Assistance Scheme. Subsequently, he was promoted to a Class-III post.

4. In a related matter by some other person, an observation was made by the OAT in its order dated 20th March 1997 to the effect that the Department should examine the legality of the appointment of persons initially made under the RAS in a Class-IV post and who were further promoted, and terminate such appointment “after giving them an opportunity to show cause so that the Applicant and other similarly situated will not have such a grievance.” The above observation was obviously not directed at any individual including the present Petitioner. The consequential order dated 4th July 2005 passed by the Department was equally innocuous. It was a general direction to the Director, Secondary Education requesting it “to kindly terminate the illegal appointments in the Class-III posts by the Inspector of Schools, Ganjam after giving them opportunity to show cause in the matter under intimation to this Department immediately.” Apprehending that the above direction would adversely affect him, the Petitioner rushed to this Court with the present writ petition in which on 5th September 2005, this Court directed that status quo as regards the service of the Petitioner to be maintained.

5. That stay order has continued for well over 16 years. The Petitioner was around 42 years old when he approached this Court and today there is one year left for his retirement. Not only has he continued in the post but, as has been repeatedly pointed out by Mr. Swain, learned counsel for the Petitioner,

he has got further promoted to the post of Senior Clerk and Head Clerk.

6. What was essentially an innocuous observation by the OAT and the consequential order by the Government has therefore not been able to give effect to in the Petitioner's case. In other words, not even a show cause notice could be issued to him because of the stay order passed by this Court.

7. The Court sees no reason why the present petition should be entertained in the first place much less a stay order continued. All the contentions of the Petitioner are permitted to be advanced in reply to the show cause notice already issued and all his contentions are reserved to be urged, if such order is adverse to him, at the stage of challenge by him to such order.

8. The writ petition is dismissed and the stay order is vacated. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Guin