

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 16304 of 2014

Pabani Behera

.....

Petitioner

Mr. M. Pati, Adv.

Vs.

***Commissioner-cum-Secretary,
School and Mass Education
Department and others***

.....

Opposite Parties

*Mr. D.R. Mohapatra,
Standing Counsel S&ME*

CORAM:

**DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO**

ORDER

10.03.2022

Order No.

9.

This matter is taken up through hybrid mode.

2. Heard Mr. M. Pati, learned counsel for the petitioner and Mr. D.R. Mohapatra, learned Standing Counsel for School and Mass Education Department.

3. The petitioner has filed this writ petition seeking modification of the order dated 22.08.2013 passed by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 3283 (C) of 1998, by which the tribunal, while directing the opposite parties to accept the petitioner as an employee of Nalinidevi Women's College of Education, Bhubaneswar as on 01.04.1990 and allow him to work in the college as government servant and grant all the benefits to the petitioner, as a government servant, which are available to other employees absorbed in that college after its taken over by the Government, directed that the petitioner would not be entitled to any back wages for the period till he actually joins the college as a gardner.

4. Mr. M. Pati, learned counsel for the petitioner contended that though the petitioner has been granted with the benefits, but he has not been paid his back wages, which is admissible to him in accordance with law. It is further contended that one similarly situated employee, namely, Bimbardhar Senapati had approached the Orissa Administrative

Tribunal by filing O.A. No. 578 of 2005, which was disposed of vide order dated 14.12.2012, directing the opposite parties to treat the petitioner therein, namely, Bimbadhar Senapati, as an employee of Nalinidevi Women's College of Education, Bhubaneswar as on 01.04.1990 and allow him to work in the college as a government servant. The tribunal has further directed the opposite parties to grant all the benefits of a government servant, which are available to other employees absorbed in that college after its taken over by the government. The very same judgment was challenged by the opposite parties-State before this Court in W.P.(C) No.24850 of 2013 and this Court, vide order dated 15.01.2014, did not feel inclined to interfere with the order passed by the tribunal and accordingly dismissed the said writ petition. Challenging the order dated 15.01.2014 passed in W.P.(C) No.24850 of 2013, State preferred SLP before the apex Court and the same was also dismissed. As a consequence thereof, Bimbadhar Senapati, petitioner in O.A. No. 578 of 2005, has been granted the benefits as due and admissible to him. It is further contended that another similarly situated employee, namely, Ajodhya Narayan Mohanty, had approached the tribunal by filing O.A. No. 141 of 2013 and in turn the tribunal passed similar order as had been passed in O.A. No. 578 of 2005. The said judgment of the tribunal was challenged before this Court in W.P.(C) No.7012 of 2016 and W.P.(C) No. 16247 of 2016, which were disposed of vide order dated 07.12.2016 directing the opposite parties to pay the benefit to the petitioner. Challenging the order passed by this Court, even though State preferred SLP Nos. 14514-14515 of 2018, the same were also dismissed. Thus, it is contended that the petitioner having stood in the same footing, the benefit should have been extended to him within a stipulated time.

5. Mr. D.R. Mohapatra, learned Standing Counsel for School and Mass Education Department does not dispute the above position and, as

such, it is contended that the petitioner stands on the similar footing with the petitioners of those cases referred to above.

6. Having heard learned counsel for the parties and after going through the records, this Court is of the considered view that since the petitioner stands on the similar footing with Bimbisar Senapati and Ajodhya Narayan Mohanty, mentioned supra and, as such, the benefit of back wages has already been extended to them pursuant to the orders passed by the tribunal, which were confirmed by this Court as well the apex Court, the petitioner cannot be discriminated, otherwise same would be violative of Article 14 of the Constitution of India.

7. In the above view of the matter, this writ petition stands disposed of directing the opposite parties to grant the benefits to the petitioner as due and admissible including the back wages, in consonance with the direction given by the tribunal in respect of Bimbisar Senapati and Ajodhya Narayan Mohanty, mentioned above, as expeditiously as possible, preferably within a period of four months from the date of production of certified copy of this order.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok/Bichi

(SAVITRI RATHO)
JUDGE