

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.16201 of 2014

Mitali Samantaray

.....

Petitioner

Mr. B.K. Dash, Adv.

Vs.

State of Orissa and others

.....

Opposite Parties

Mr. S. Jena, SC

(for S & ME Deptt.,)

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. MISHRA

ORDER

05.08.2022

Order No.

06.

This matter is taken up by hybrid mode.

2. Heard learned Counsel for the Petitioner and Mr. S. Jena, learned Standing Counsel for the School and Mass Education Department for the State-Opposite Parties.

3. The Petitioner has filed this Writ Petition challenging the Order dated 24.07.2014 passed in P. No.311(C)/2014 under Annexure-6, by which the Odisha Administrative Tribunal, Cuttack Bench, Cuttack, has rejected the claim of the Petitioner on the ground of maintainability.

4. The factual matrix of the case, in brief, is that the Petitioner, while working as Computer Teacher/Digital Equalizer Facilitator in Government Girls' High School, Kendrapara, filed Original Application for declaration that the post held by her is civil post in the said School and created by the Government and that she was selected validly and appointed as Teacher. But the Tribunal dismissed the claim of the petitioner holding that her post is not a civil post and, therefore, the Original Application is not maintainable. Therefore, the Petitioner has approached this Court by filing the present Writ Petition.

5. Learned Counsel for the Petitioner contended that the Petitioner was working as a Computer Teacher/Digital Equalizer

Facilitator under the Government, which may be treated as Government servant, and the Tribunal should have entertained the Original Application.

6. Mr. S. Jena, learned Standing Counsel for the School and Mass Education Department for the State-Opposite Parties contended that the Petitioner is not the holder of civil post and, therefore, the Tribunal is well justified in passing the Order impugned stating that she is not entitled to the benefit and dismissed the Original Application as not maintainable, which does not require any interference of this Court.

7. Having heard learned Counsel for the Parties and after going through the records, this Court finds that Odisha Madhyamik Sikhya Mission is a Project under Rashtriya Madhyamika Mission and the post of Digital Equalizer Facilitator is not a civil post. It is contended that since the Petitioner was appointed under the project of Rastriya Madhamika Mission, she was not a holder of civil post. Consequentially, the benefit, as claimed by the Petitioner is not admissible. It appears that as per Order dated 18.12.2010, the Government of India launched a centrally sponsored scheme called Rastriya Madhyamika Sikhya Abhiyan to make Secondary education available, accessible and affordable to all children of appropriate age group. The objective of the scheme was to achieve a gross Enrolment Ration (GER) of 75% within 5 years. For implementation of Rashtriya Madhyamika Sikhya Abhiyan at the State level, it has been decided to institute a State Mission Authority in the name of Odisha Madhyamik Sikhsya Mission to be registered under the Societies Registration Act. In paragraph 3 of the quotations from tender/contract of the Odisha Knowledge Corporation Ltd. (OKCL) with the State Government dated 06.04.2013 through

Odisha Madhyamika Sikhya Mission (OMSM), it has been stipulated that the Government shall not have any liability including litigation arising due to recruitment, retrenchment/reallocation/salary disbursement of any other service conditions. In case of any dispute/litigation arising as a result of the service condition, the said dispute will be exclusive dispute between the Zonal Project Manager/District Coordinator/all Centre Executive/School Coordinator/any other staff appointed by the bidder and the bidders. The experience certificate issued by the Headmistress, Government Girls' High School, Kendrapara indicates that the Petitioner was working as D.E. Facilitator, on behalf of A.I.F., i.e. American India Foundation organization) in the School since 01.10.2007 and the Petitioner was appointed under a Scheme registered under the Societies Registration Act. She does not hold a civil post, within the jurisdiction of the Tribunal under Section 15 of the A.T. Act.

8. In view of such position, this Court does not find any error on the face of the record to interfere with the Order passed by the Tribunal in rejecting the claim of the Petitioner.

9. Accordingly, the Writ Petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

Ashok/Padma

(S.K. MISHRA)
JUDGE