

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 24925 of 2012

*Commissioner-cum-Secretary,
Govt. of Orissa, S&ME and others*

.....

Petitioners

Mr. S. Jena, Standing Counsel S&ME

Vs.

Suresh Kumar Mishra and others

.....

Opposite Parties

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. MISHRA

ORDER

21.06.2022

Order No.

06.

This matter is taken up through hybrid mode.

2. In compliance of the order dated 21.04.2022, fresh notice with correct address was issued to opposite party no.1 and A.D. has been received from him after valid service. Therefore, notice as against opposite party no.1 be treated as sufficient.

3. Heard Mr. S. Jena, learned Standing Counsel for School and Mass Education Department for the petitioners.

4. None appears for the opposite party no.1, even though notice has been made sufficient as against him. Since it is an old case of the year 2012, this Court is not inclined to grant any further adjournment.

5. Perused the record. The petitioners have filed this writ petition seeking to quash the order dated 08.09.2010 passed in O.A. No. 9(S) of 2008, by which the Orissa Administrative Tribunal, Circuit Bench, Sambalpur directed the petitioners to pay differential/arrear salary in the T.G. post to the opposite party no.1 for the period from 17.01.2005 to 23.06.2006 within a period of three months.

6. Mr. S. Jena, learned Standing Counsel for School and Mass Education Department appearing for the petitioners contended that to the extent the order passed by the tribunal in paragraph-11 of

the order dated 08.09.2010 directing to pay differential/arrear salary in the T.G. post to the opposite party no.1 for the period from 17.01.2005 to 23.06.2006 within a period of three months, the petitioners are aggrieved and thus they have approached this Court by filing the present writ petition.

7. As it appears, opposite party no.1 was appointed as classical teacher in Talab High School in the district of Sambalpur w.e.f. 13.08.1973 and was drawing salary of matric C.T. scale. In the year 1978, he acquired B.A. qualification and consequentially got the salary of I.A. C.T. scale. Thereafter, in the year 1984-85, he got B.Ed. qualification. Consequentially, the school became a government school with effect from 07.06.1994. It was the submission of opposite party no.1 before the tribunal that on his acquiring B.Ed. qualification, he should have been given the scale of a trained graduate teacher post in the rank of SES/T.G. teacher on the date of acquiring that degree. His further submission was that his name was recommended by the Managing Committee for T.G. teacher post but was not approved by the Inspector of Schools/Director though a vacancy occurred in that school on 23.03.1985 in the said rank. Therefore, he claimed that he should have been given T.G. scale from that date. It was his further submission that opposite party no.2, who is junior to him was given promotion to T.G. teacher post so also promotion to the higher rank and, therefore, he should not have been discriminated. It was his further submission that he should be given promotion with effect from 01.11.1985 to the T.G. teacher post from the date of acquisition of T.G. qualification so also to restore his seniority vis-à-vis opposite party no.2 in the educational circle of Sambalpur in that rank and also the consequential service and financial benefits as due and admissible to the post, in view of

Rule-8(2)(b) of Orissa Education (Recruitment and Conditions of Service of Teachers and Members of staff of Aided Educational Institutions) Rules, 1974, which provides that teachers of educational institutions are entitled to all the service and financial benefits applicable to government teachers of that rank. Therefore, opposite party no.1 having acquired trained qualification and having not extended with such benefit, approached the tribunal and the tribunal by the order impugned directed the petitioners to pay differential/arrear salary in the T.G. post to the opposite party no.1 for the period from 17.01.2005 to 23.06.2006 within a period of three months, which is subject matter of challenge before this Court.

8. Having heard learned counsel for the petitioners and after going through the records, this Court finds that Rule-8(2)(b) of Orissa Education (Recruitment and Conditions of Service of Teachers and Members of staff of Aided Educational Institutions) Rules, 1974 clearly provides that teaching and non-teaching staff of aided educational institutions should get same scale of pay as that of the counterpart in the government schools. Furthermore, the Government of Orissa in Education Department had also issued an instruction on 08.05.1992 that such teachers like, I.A. teachers, classical teachers etc., who acquired the appropriate prescribed training qualification, subsequent to the date of appointment, should be given appropriate higher scale of pay with effect from acquisition of such qualification or training. Admittedly, opposite party no.1 acquired higher qualification after joining the post and, therefore, he is entitled to trained graduate scale of pay from the date of such acquisition of higher qualification. The same having not been extended to him, there is non-compliance of Rule-8(2)(b) of Orissa Education (Recruitment

and Conditions of Service of Teachers and Members of staff of Aided Educational Institutions) Rules, 1974, so also instruction dated 08.05.1992 of Government of Orissa in Education Department for extension of trained graduate scale of pay admissible to the teachers who acquired such qualification after their joining.

9. In such view of the matter, this Court does not find any error apparent on the face of the order dated 08.09.2010 passed in O.A. No. 9(S) of 2008 by Orissa Administrative Tribunal, Circuit Bench, Sambalpur so as to warrant interference with the same.

10. Accordingly, the writ petition merits no consideration and the same is hereby dismissed. Consequentially, the order passed by the tribunal is hereby affirmed.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE

Ashok/PCD

