

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No. 354 of 2012

Jyotsnarani Dash

....

Petitioner

Mr. A.K. Chhatoi, Advocate

-versus-

Aparajita Sarangi

....

Opposite Party

Mr. B.A. Prusty, Addl. Standing Counsel
(S & ME Department)

CORAM:

THE CHIEF JUSTICE

JUSTICE R.K. PATTANAİK

ORDER

19.07.2022

Order No.

43. 1. The present contempt petition has been filed alleging non-compliance with an order dated 15th September, 2011 passed by this Court in Misc. Case No.8547 of 2010 arising out of W.P.(C) No.14032 of 2007 filed by the present Petitioner.
2. The background to the present contempt petition is that the Petitioner, who states that she is a trained Science Graduate, was selected by the Managing Committee of the Pubusahi High School in Khurda district and was appointed as an Additional Section Teacher on 1st June, 1994. While she was continuing as such, the said school was taken over by the Government of Odisha with effect from 7th June, 1994. The Chief Inspector of Schools, Khurda is stated to have recommended for approval of appointment of the Petitioner as Section Teacher in the said school on 29th June, 1996. There is nothing in the narration in this petition to indicate what happened

immediately thereafter. This fact emerges in the reply filed by the Opposite Parties to the present petition. It has been pointed out that she worked in the school till 29th September, 1997 and “then left the job”. In the rejoinder affidavit, it is sought to be contended that it is not a fact that the Petitioner left the job after 27th September, 1997” since “the Petitioner was appointed as Assistant Examiner by the Board of Secondary Education, Odisha for the Annual High School Certificate Examination, 1999”.

3. From the above statement in the rejoinder, it is clear that the Petitioner has not been able to dispute that she did not continue as a teacher after 29th September, 1997. Her appointment as an Assistant Examiner is something quite different from continuing in the school as a teacher. The corresponding document enclosed with the rejoinder affidavit is an ‘appointment letter’ issued by the Board of Secondary Education Odisha, appointing the Petitioner as an Assistant Examiner and that too only for a period of 12 days beginning on 7th April, 1999. This by no means is a continuation of employment of the Petitioner as a teacher in the school. In fact, there is no link established between her employment as a teacher and the above appointment as an Assistant Examiner.

4. Therefore, the fact that emerges is that the Petitioner was working as a teacher in Pubusahi High School for slightly over three years i.e. between 1st June, 1994 and 29th September, 1997.

5. This is an important because the entire contempt petition is based on the fact that the Petitioner is entitled to the same relief that has been given to two other teachers, one of whom is Bijay Jena, who

had initially filed O.A. No.405(C) of 2000 before the Odisha Administrative Tribunal (OAT) and the said application had been allowed by the OAT by an order dated 4th March, 2004. It is pointed out that against the said order of the OAT, the State Government had filed W.P.(C) No.14895 of 2004 in this Court and the said writ petition had been dismissed on 17th November, 2005. The SLP against the said order was also dismissed by the Supreme Court of India.

6. As far as the present Petitioner is concerned, she stated to have filed a separate writ petition i.e. W.P.(C) No.14032 of 2007 for being extended the same benefits as has been extended to Bijay Jena. That writ petition was disposed of by this Court on 15th September, 2011 by an order, the operative portion of which reads as under:

“We dispose of this writ application in terms of the order dated 17.11.2005 passed in W.P.(C) No.14895 of 2004 and direct the opposite parties to extend the benefit that has been extended in W.P.(C) No.14895/2004 to the present petitioner within a period of three months from the date of communication of this order.”

7. The only short question that arises, therefore, is whether there has been a wilful disobedience of the above order dated 15th September, 2011 passed by this Court.

8. In the compliance affidavit, it is stated that as regards the Petitioner's claim for financial dues after receipt of a claim, the total admissible financial dues amounting to Rs.1,28,242/- has been paid to the Petitioner in two phases i.e. 40% Rs.51,296/- and 60% Rs.76,946/- through her Bank Account.

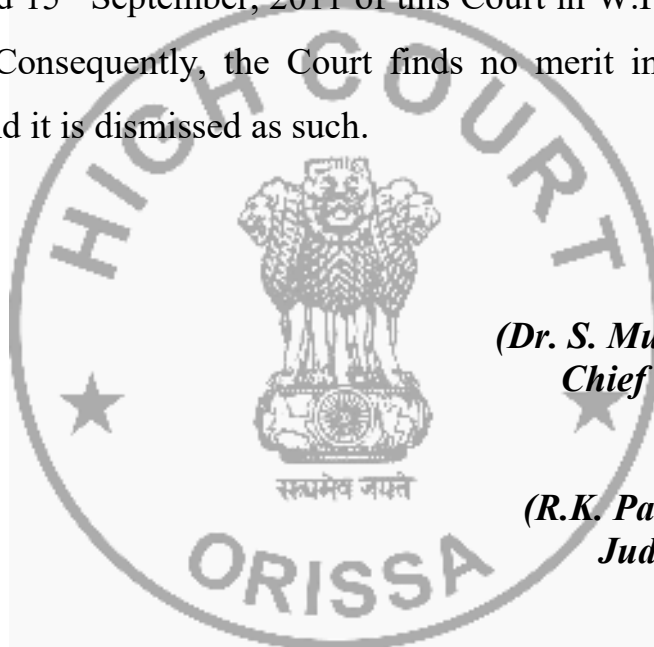
9. The proof of the above payment actually having been made into the Petitioner's Bank account has been enclosed with the reply. There is no denial of this fact in the rejoinder filed. However, it is contended that the Petitioner is entitled to the entire salary for the period from 7th June, 1994 to 15th October, 2015 and that there was an admission that in the SLPs filed in the Supreme Court against the order dated 15th September, 2011 that if the said orders were to be complied with then the State would have to pay more than Rs.20 lakhs.

10. It must be noted straightway that the order of the Supreme Court is an in limine dismissal of several SLPs filed against the similar orders passed by this Court affirming the orders of the OAT. It simply states "Special Leave Petitions are dismissed". The individual facts of each case were not discussed. What stands out is that while the Petitioner seeks to draw the parallel with other teachers like Santosh Kumar Prusty and Sujata Sahoo, who were supposed to have been paid larger sums by way of compliance of the order of this Court, it is not stated how the facts of those cases are similar to the facts of present case. The basic premise of the Petitioner that she somehow continued in service till she reached the age of superannuation on 31st October, 2017 is not borne out by any document placed on record.

11. There is no document placed on record to show that the Petitioner continued as a teacher after 29th September, 1997. Despite repeated queries by this Court, the counsel for the Petitioner was not able to point out a single document to that effect. He only referred to the documents enclosed with the rejoinder which is the appointment

letter of the Board of Secondary Education dated 8th March, 1999 appointing the Petitioner as Assistant Examiner for a period of 12 days from 7th April, 1999. As already pointed out and by no means indicates that either that the Petitioner continued as a teacher after 29th September, 1997 or that she superannuated only on 31st October, 2017.

12. Consequently, this Court is not satisfied that the Petitioner has made out a case for willful disobedience by the Opposite Parties by order dated 15th September, 2011 of this Court in W.P.(C) No.14032 of 2007. Consequently, the Court finds no merit in the contempt petition and it is dismissed as such.



(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/Secy.