

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 27692 of 2013

Chandramani Sahu

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Petitioner

*Mr. D.N. Rath,
Advocate*

Vs.

State of Orissa & Ors.

.....

Opposite Parties

Mr. S. Jena, SC, S&ME Deptt.

CORAM:

**DR. JUSTICE B.R. SARANGI
MR. JUSTICE S. K. MISHRA**

ORDER

28.07.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. D.N. Rath, learned Counsel for the Petitioner and Mr. S. Jena, learned Standing Counsel for School & Mass Education Department.

3. This Court, vide Order dated 11.04.2022 directed Mr. D.N. Rath, learned Counsel for the Petitioner to satisfy this Court with regard to the following:

“4. If one post of Daftary is admissible, can it be construed to be the automatic creation of post, so that a person can be appointed. To that extent, learned counsel for the petitioner wants to satisfy this Court by citing some judgment and or some executive instructions in that regard.

5. Admittedly the petitioner was appointed on 01.07.1993 as peon, which is clearly illegal. Since the post of Daftary has not been created, therefore, the question of promotion of Mr. Gagan Bihari Das to the post of Daftary does not arise. Admittedly Mr. Das retired from service on 30.04.1997. By that time, the school has been taken over with effect from 07.06.1994. As such the petitioner cannot be appointed against the retirement vacancy of Mr. Das, because of nature of the school, which has been changed by virtue of the taking over of the school”.

4. Mr. D.N. Rath, learned Counsel for the Petitioner fairly states that in view of query made by this Court, vide Order dated 11.04.2022, the Petitioner has no case. But fact is that the Petitioner is continuing since 1993 and in the meantime, he has gained experience for more than 30 years. Therefore, in view of

Circular dated 20.07.2012 issued by the School and Mass Education Department, Government of Odisha, protecting the interest of the persons who are continuing the post long since, direction may be issued to the Opposite Parties to consider the case of the Petitioner keeping in view his long years of continuous service.

5. In that view of the matter, the Government may sort out the claim of the Petitioner by considering his case for continuance in the post. However, this Court has not expressed any opinion on the merits of the case.

6. Accordingly, the Writ Petition stands disposed of.

7. Issue urgent certified copy as per rules.

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(DR. B.R. SARANGI)
JUDGE

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(S. K. MISHRA)
JUDGE

