

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.3713 of 2019

State of Odisha and others

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Petitioner
*Mr. S. Jena, S.C.,
S & M.E. Deptt.*

Vs.

Sanghamitra Choudhury and Anr.

.....

Opposite Party
Mr. L. Mohanty, Advocate

CORAM:

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

ORDER

04.08.2022

Order No.

04.

This matter is taken up by hybrid mode.

2. Heard Mr. S. Jena, learned Standing Counsel for the School and Mass Education Department for the Petitioners; and Mr. L. Mohanty, learned Counsel appearing for the Opposite Party No.1.

3. The State and its functionaries have filed this Writ Petition seeking to quash the Order dated 04.01.2018 passed in O.A. No.3858(C) of 2015 and batch, by which the Odisha Administrative Tribunal, Cuttack Bench, Cuttack disposed of the Original Applications by holding that the Opposite Party and other applicants are entitled to relief as claimed in the Original Applications.

4. Mr. S. Jena, learned Standing Counsel for School and Mass Education Department appearing for the State-Petitioners contended that the Tribunal has committed gross error apparent on the face of the record in allowing the claim of the Opposite Party by directing to count the period of service from the date of her initial appointment as Resource Teacher and extending all consequential benefits like seniority, promotion, protection of pay and fixation of her pay under the ORSP Rules, 2008, as due and

admissible. Though batch of Original Applications were disposed of by a common Order, but separate Writ Petitions have been filed by the State-Petitioners against each of the Applicants.

5. Mr. L. Mohanty, learned Counsel appearing for the Opposite Party No.1 contended that one such Writ Petition, bearing W.P.(C) No.631 of 2019, was filed by the State challenging the Order passed in O.A. No.3860(C) of 2015, which has been mentioned at Sl. No.6 of the cause title of the Order impugned, as at Annexure-1 to the Writ Petition, and by a detailed reasoned Order, the said Writ Petition filed by the State was dismissed by this Court on 13.03.2020. Against the said Order, the State preferred SLP No.129 of 2021, which was also dismissed on 25.01.2021. Thereafter, though the State filed a Review Writ Petition, i.e. REVWPT No.74 of 2021, arising out of W.P.(C) No.631 of 2019 disposed of on 13.03.2020, but the same was also dismissed, vide Order dated 12.11.2021. Thereby, the Order passed by the Tribunal has been confirmed and, as such, the benefit has already been granted to Sarojini Kar, who was applicant in O.A. No.3860 (C) of 2015. It is further contended that in case of one Swarnalata Bebartha Pattnaik, who was Applicant in O.A. No.3862(C) of 2015, which finds place at Sl. No. 8 of the impugned Order, challenging the Order passed by the Tribunal, State had filed Writ Petition bearing W.P.(C) No. 4826 of 2019, which was dismissed vide order dated 03.12.2019. Against the said Order, the State preferred SLP No.218 of 2021, which was also dismissed on 01.03.2021. It is contended that the benefit has already been extended to those similarly situated persons where the SLP has been dismissed. Thereby, the Opposite Party No.1,

being one of the applicants in O.A. No.3858(C) of 2015, whose name finds place at Sl No.4 of the Cause Title of the Order, as at Annexure-1, out of which the present Writ Petition arises, also stands on similar footing with other applicants, namely, Sarojini Kar in O.A. No.3860(C) of 2015 and Swarnalata Bebartta Pattnaik in O.A. No.3862(C) of 2015. In such view of the matter, this Writ Petition may be dismissed and direction may be given to the State-Petitioners to extend the similar benefits, as have been extended to similarly situated persons, whose matters have already been adjudicated and they have been extended with such benefits.

6. Having heard learned Counsel for the Parties and after going through the records, this Court finds that the present Writ Petition arises out of a common judgment of the Tribunal passed in O.A. No.3858(C) of 2015 of 2016 along with 7 other Original Applications disposed of on 04.01.2018 extending the benefits to the applicants therein. Though the State filed separate Writ Petitions challenging the common judgment passed by the Tribunal, but out of them two Writ Petitions, one arising out of O.A. No.3860(C) of 2015 filed by Sarojini Kar and the other arising out of O.A. No.3862(C) of 2015 filed by Swarnalata Bebartta Pattnaik have already been dismissed and against those Orders the State preferred SLPs and the same have also been dismissed. Thereby, the Order passed by the Tribunal has been confirmed by the Apex Court.

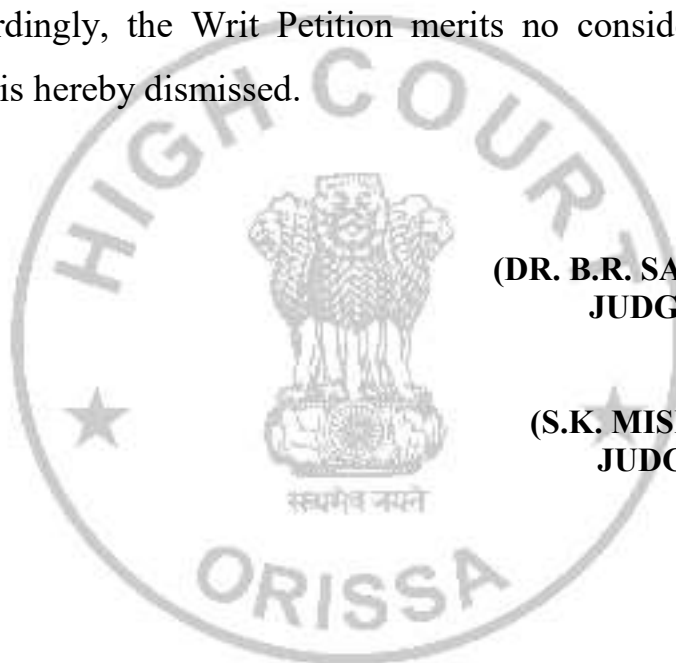
7. Needless to say, since similar Order has already been passed by this Court which is on record, so far as Sarojini Kar is concerned, against whom State has already filed W.P.(C) No.631 of 2019, which was disposed of by this Court vide order dated

13.03.2020 by passing a reasoned Order, the same is squarely applicable to the present Writ Petition.

8. In the above view of the matter, this Court is of the considered view that the Order passed in O.A. No.3858(C) of 2015 is also confirmed and the Tribunal Order has to be implemented in the case of the Opposite Party, as similarly situated persons like Sarojini Kar and Swarnalata Bebartta Pattnaik have already been granted the benefit.

9. In view of the above, we do not find any illegality or irregularity committed by the Tribunal in passing the Order impugned so as to warrant interference with the same. Accordingly, the Writ Petition merits no consideration and the same is hereby dismissed.

Ashok/Padma



(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE