

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 2564 of 2016

Sadhu Charan Behera

.....

Petitioner

Mr. P.C. Acharya, Advocate

Vs.

State of Odisha & Others

.....

Opposite parties

Mr. S. Jena, Standing Counsel S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

02.05.2022

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. P.C. Acharya, learned counsel for the petitioner and Mr. S. Jena, learned Standing Counsel for School and Mass Education Department.

3. The petitioner has filed this writ petition challenging the common order dated 09.05.2011 passed in O.A. No.1004(C) of 2007, by which the Orissa Administrative Tribunal, Cuttack Bench, Cuttack observing that the judgment of the apex Court in the case of Selvaraj v. Lt. Governor, Island, Port Blair, AIR 1999 SC 838 has no application to the case, denied the benefit to the petitioner.

4. Similar matter had come up for consideration before this Court in W.P.(C) No.13167 of 2012 and batch (***State of Odisha and others v. Banchanidhi Das***, disposed of on 28.03.2022), wherein this Court observing that as the opposite parties therein, in addition to their substantive posts of Assistant Teacher, were carrying on higher responsibility by discharging the duty of Headmaster-in-charge/Acting Headmaster, they may be entitled to

“charge allowance”, directed the State-opposite parties to consider and release “charge allowance” in favour of the opposite parties for having discharged higher responsibility remaining in the substantive post of Assistant Teacher, which is admissible in the service law applicable to the opposite parties.

5. In the above view of the matter, the order of the tribunal dated 09.05.2011 passed in O.A. No.1004(C) of 2007 passed by the tribunal so far as it relates to the petitioner cannot sustain. Accordingly, the same is hereby quashed. The State-opposite parties are directed to extend the benefit to the petitioner as he has discharged the duty against the substantive post of Assistant Teacher and carrying on higher responsibility by discharging the duty of headmaster/acting headmaster, and release the “charge allowance” in favour of the opposite parties for having discharged higher responsibility remaining in the substantive post of Assistant Teacher, which is admissible in the service law applicable to the petitioner, as expeditiously as possible preferably within a period of three months from the date of production of certified copy of this order.

6. The writ petition is accordingly disposed of.
Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok/Sukanta

(SAVITRI RATHO)
JUDGE