

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.5431 of 2022

Smita Mohanty & Ors.

.....

Petitioners

Mr. G. Mishra, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

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

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

01.11.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. G. Mishra, learned, learned counsel appearing for the petitioners and Mr. S. Jena, learned Standing Counsel for School & Mass Education Department.

3. The petitioners have filed this writ petition seeking to quash the order dated 31.08.2021 under Annexure-5, by which the District Education Officer, Sundargarh has rejected the grievance of the petitioners to count their services rendered under H & UD Department prior to taken over towards qualifying service for extension of pensionary benefits in pursuance of the order dated 28.02.2004 passed by this Court in W.P.(C) No.6375 of 2021.

4. Mr. G. Mishra, learned, learned counsel appearing for the petitioners contended that the petitioners had rendered their services in the High Schools under the Urban Local Bodies of Sundargarh district and subsequently, their services were taken over by the State Government w.e.f. 28.02.2004. It is contended that though the petitioners were treated as Government employees w.e.f. 28.02.2004, but their past services rendered under the Urban

Local Bodies have not been taken into consideration for pensionary benefit and other benefits by regularizing the said period.

5. Mr. S. Jena, learned Standing Counsel for School & Mass Education Department contended that the petitioners have rendered two district and separate services. Admittedly, they were working under the Urban Local Bodies of Sundergarh district and by virtue of resolution dated 28.02.2004 of the Government, their services were transferred to the School and Mass Education Department and they were treated as Government employees. Therefore, the period of their past services under the Urban Local Bodies cannot be taken into consideration for determination of pensionary benefit and other benefits. It is further contended that similar case had come up for consideration before this Court in ***Hara Priya Patra v. State of Odisha*** (WPC (OAC) No.2709 of 2016, disposed of on 25.08.2022), wherein it has been held that regularization of services from the date of their initial appointment under the Urban Local Bodies cannot be granted, but their services can be regularized from the date the schools have been taken over by the Government, i.e. 28.02.2004.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, it appears that the petitioners were the employees under the Urban Local Bodies and, as such, by virtue of Resolution dated 28.02.2004 of the Government, the schools under the Urban Local Bodies were taken over by the School and Mass Education Department w.e.f. 28.02.2004 and they were considered the teachers under the State Government. Therefore, their past services rendered under the Urban Local Bodies cannot be taken into consideration for

determination of pensionary benefits and other benefits in view of judgment of this Court in *Hara Priya Patra* (supra). Accordingly, the claim made by the petitioners cannot sustain in the eye of law.

7. In that view of the matter, the order dated 31.08.2021 Annexure-5 passed by the District Education Officer rejecting the grievance of the petitioners is well justified. Therefore, this Court is not inclined to entertain this writ petition. Accordingly, the writ petition merits no consideration and the same is dismissed.

(DR. B.R. SARANGI)
JUDGE

Alok

