

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 6037 of 2014

Jagadish Bhoi

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Petitioner

Mr. D.K. Sahu, Advocate

Vs.

***State Administrative
Tribunal, Cuttack Bench,
Cuttack & Ors.***

.....

Opposite parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

16.03.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. D.K. Sahu, learned counsel for the petitioner and Mr. D.R. Mohapatra, learned Standing Counsel for School and Mass Education Department.

3. The petitioner has filed this writ petition assailing the order dated 13.03.2013 passed by the State Administrative Tribunal, Cuttack Bench Cuttack in O.A. No.1489 (C) of 2008, by which the tribunal has disposed of the said O.A. observing that so far as regularization of the period of service is concerned, since the withdrawal of cancellation of order dated 24/25.06.2008 is quashed and admittedly the petitioner was relieved from his service by that date, the entire period i.e. from 25.06.2008 till his joining in his new place of posting, will be treated as continuity in service, but he shall be

allowed service benefit only on notional basis and actual service benefit from the date of joining in new place of posting, which shall be issued by the District Education Officer, Sambalpur on receipt of the order as early as practicable.

4. On perusal of the record, it appears that the petitioner, while continuing as PET in Govt. Secondary Training School, Deogarh, was transferred to Govt. High School, Bijepur vide order dated 14.06.2007. Challenging the said order of transfer, the petitioner had filed O.A. No.1690 of 2007 and the tribunal disposed of the said O.A., vide order dated 20.12.2007, with a direction to the opposite parties to consider and dispose of his representation, and that till disposal of representation, status quo in respect of the petitioner shall be maintained. In compliance of the said order, the transfer order of transfer of the petitioner was cancelled and he was allowed to continue in Govt. Secondary Training School, Deogarh vide order dated 08.02.2008 passed by the Director, Teacher Education & SCERT, Odisha. After expiry of more than four and half months, the said order dated 08.02.2008, along with consequential order, was withdrawn and the petitioner was intimated. Challenging the said order of withdrawal of cancellation of transfer order dated 24/25.06.2008, the petitioner again approached the tribunal by filing O.A. No.1489(C) of 2008. The tribunal, while issuing notice,

directed to maintain status quo of the petitioner as on that date, i.e. 10.07.2008 afternoon, if his successor did not relieve till 25.07.2008. After the order of withdrawal of cancellation of transfer order dated 24/25.06.2008 was passed, the petitioner was immediately relieved from his post. Therefore, even though status quo order was passed in favour of the petitioner on 10.07.2008, he was not allowed to join the post and accordingly, for the last four years, he was out of job. Considering the facts of the case, the tribunal, vide order dated 13.03.2013, passed the following order.

“ Considering the submission made by the learned counsel for both the parties, I am of the considered view that once the respondent authorities in response to the direction of this Tribunal passed on O.A No. 1690/07, cancelled the order of transfer of the applicant and allowed him to continue in Govt. Secondary training School, Deogarh, at a later stage the said authorities were at liberty to transfer the applicant once again to any other school but withdrawal of the said cancellation order of transfer ought not to have been issued by the authority concerned. In that view of the matter, the order dated 24/25.06.2008 (Annexure -7) is liable to be quashed.

In view of the above and keeping in view the fact that the applicant has already been relived from his service since 2008 and someone else is continuing in Govt. Secondary Training School, Deogarh in place of the applicant, the respondent authorities shall do well to give the applicant a posting in another place if no post is available at Deogarh as early as practicable preferably within a period of one month from the date of communication of this order.

So far as regularization of the period of service is concerned, since the order dated 24/25.06.2008(Annexure -7) is quashed and admittedly the applicant was relieved from his service by that date, the entire period i.e. from 25.06.2008 till his joining in his new place of posting, will be treated as continuity is service, but he shall be allowed service benefit only on notional basis and actual service benefit from the date of joining in his new place of posting, which shall be issued by the District Education Officer, Sambalpur on receipt of this order, as early as practicable.”

5. In view of above, this Court does not find any illegality or irregularity in the order dated 13.03.2013 committed by the tribunal in O.A. No.1489 (C) of 2008, so as to warrant interference of this Court. Accordingly, the writ petition merits no consideration and the same is dismissed.

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(**DR. B.R. SARANGI**)
JUDGE

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(**SAVITRI RATHO**)
JUDGE

