

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 12413 of 2016

Binay Ku Dash

.....

Petitioner

Mr.M. Pati, Advocate

Vs.

***Secretary to Government and
another***

.....

Opposite parties

Mr.S.N. Nayak, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

23.03.2022

Order No.

18.

This matter is taken up through hybrid mode.

2. Heard Mr. M. Pati, learned counsel for the petitioner and Mr. S.N. Nayak, learned Additional Standing Counsel.

3. The petitioner has filed this writ petition challenging the order dated 26.02.2016 passed by the Orissa Administrative Tribunal, Principal Bench, Bhubaneswar in O.A. No. 681 of 2013, by which the tribunal observed that since the petitioner had not acquired the CT training qualification within the period stipulated in the appointment letter nor even within the period extended by virtue of the order of the Tribunal, the relief sought by him to reinstate him in service by quashing the impugned order of termination, cannot be sustained.

4. The factual matrix of the case, in hand is that pursuant to the letter dated 21.3.1992 issued by the Govt. in H&TW Department, Orissa, the petitioner was initially appointed as Sevak in the pay scale of Rs. 1080-1800/- with usual DA and other allowances vide order dated 9.4.1992 of the Collector, Ganjam,

with a stipulation that he must acquire CT qualification within a period of three years from the date of appointment, failing which his services would be terminated. The petitioner had joined in 1992. He served as Sevak at different places and lastly posted at Taptapani R/S Sanakhemundi Block till 26.7.2007, when he had to receive termination order from service on the ground that he could not acquire requisite qualification within the stipulated period of three years. When the petitioner joined service in 1992, he had acquired the qualification of B.A. without having any certificate of training and as per stipulation he was sent to undergo CT training course during 1993-96 being relieved on 21.7.1993 by the order of Addl. Block Development Officer, Sanakhemundi. Though he completed the CT training course, but could not appear theory papers due to sudden death of his sister in the year 1995. Thereafter, even though he had made several representations to the authority concerned to permit him to appear CT examination he was not allowed and was deprived of acquiring CT training certificate. Finally, he was terminated from service on 26.7.2007. Challenging the termination order, the petitioner approached the Tribunal by filing O.A. No.1170/07, which was disposed of on 20.8.2007 with a direction to opposite party no.1 to consider the representation of the petitioner by a speaking order within a period of three months from the date of receipt of a copy of the order. In obedience to the order of the Tribunal dated 20.8.2007 the opposite parties rejected the prayer of the petitioner for his reinstatement in the service. The petitioner again approached the Tribunal by filing O.A. 1722/07, which was disposed of on 2.7.2009 with the following order.

“We, therefore, hold that whereas the applicant had a liability to complete the examination in time, the

respondents had a duty immediately after he failed to qualify in time. After allowing him to continue for an additional period of 12 years, the respondents cannot terminate his services without giving him an opportunity and abdicate their own responsibility in this regard. Therefore, in the interest of fairness and justice we direct respondent no.1 to allow the applicant one final chance for clearing the said CT examination through the next available examination. In case he clears the examination in the immediately following examination in one attempt, he shall be reinstated and his past services will be counted. We do not recommend treating the period of break in service as service under the Government and no salary and allowance can also be claimed in case he comes out successful in the next CT examination.”

5. It is the further case of the petitioner that pursuant to the order of the Tribunal dated 2.7.2009, several correspondences were made at Government level, but nothing positive came out. However the petitioner having completed more than 15 years in service and crossed the age of 48 years, as per Explanation-VI of Rules-15 of the Odisha Elementary Education Rules, 1997, the petitioner is also entitled to the financial benefits of a trained teacher.

6. However, considering the grievance made by the petitioner, the tribunal came to a finding that the petitioner was appointed under ST & SC Development Department, but not under School & Mass Education Department. Therefore, the claim of the petitioner for extension of benefit as per Rule-15 of the Odisha Elementary Education Rules, 1997 providing trained scale of pay to an untrained teacher on completion of 48 years is not applicable. The tribunal further observed that the petitioner had not acquired the CT training qualification within the period stipulated in the appointment letter nor even within the period extended by virtue of the order of the Tribunal. Therefore, the relief sought for by the petitioner to reinstate him in service by quashing the impugned

order of termination cannot be entertained.

7. On going through the impugned order, this court finds no error apparent on the face of the order of the tribunal, calling for interference by this Court.

8. In view of the above, the writ petition merits no consideration and the same stands dismissed accordingly.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Arun