

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No. 9458 of 2022

Minati Nayak and Ors.

.....

Petitioners

Mr. D.N. Rath, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. H.M. Dhal, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

16.11.2022

Order No.

09.

This matter is taken up through hybrid mode.

2. In compliance of the order dated 14.11.2022, Mr. Suryanarayan Mohapatra, Joint Secretary to Government, Department of Higher Education, Odisha appears in person and files an additional affidavit, paragraphs-4 and 8 whereof are extracted hereunder:-

“4. That in terms of the submissions made by the learned counsel for the State, the order under Annexure-A was modified vide Corrigendum dated 15.11.2022 in which the offending portion in the notification under Annexure-A was deleted and the remaining portion of the order remains unaltered. The copy of the said Corrigendum dated 15.11.2022 is filed herewith as Annexure-B.

8. That so far as the arrears are concerned, it is submitted that in the meantime there has been revision of scales of pay of the employees on 3 occasions i.e. under ORSP Rules, 1998, 2008, 2008 and 2017. On the basis of such revision in the pay scales, the salary of the petitioners has to be calculated and revised accordingly for which the Principal needs some time for preparing the bill and onward submission of the same to the Department for sanction and release in favour of the petitioners. The Principal has been clearly instructed by the Authorities to take effective steps for preparation of the bills and submission of the same to the Department. No sooner the Principal submits the bills, the same will be sanctioned and released by the Department in favour of the petitioners.”

3. It is stated that the conditions which was stipulated in the

Department order dated 09.11.2022 has been recalled vide corrigendum dated 15.11.2022 under Annexure-B to the affidavit. The same is extracted to the following effect:-

“Subject to the outcome of the result of curative petition filed before the Hon’ble Supreme Court of India vide order dated 28.06.2021 in SLP (C) Dy. No.44235/2019 and Review Petition bearing RP (C) Dy. No. 29291/2021-State of Orissa-Vrs-Anup Kumar Senapati and others.”

It is stated that direction was given to the Principal to prepare the arrear bills so that the same can be paid to the petitioners. So far as current G.I.A. is concerned, the same has already been released in favour of the petitioners vide office order no.6G-VI01-2022-13504 dated 15.11.2022, a copy of which has been annexed as Annexure-E to the affidavit. As such, whatever relief sought by the petitioners, the same has already been granted by the authority. Therefore, seeks for disposal of the writ petition.

4. Mr. D.N. Rath, learned counsel for the petitioner brings to the notice of the Court by filing a memo incorporating the letter dated 14.11.2022 issued by the Director, Higher Education, Odisha wherein condition has been incorporated to the point no.2 of the GIA Post approval order dated 09.11.2022 to the following effect:-

“Arrear claim as admissible in favour of the petitioner shall be guided as per decision/judgment rendered by the Hon’ble Apex Court in the matter of Union of India-Vrs-Tarsem Singh reported in (2008) (8) SCC-648. The arrear claim shall be paid to the incumbents from May-2009 i.e. 3 years before the date of filing of GIA Case No. 256/2012 of the applicants.”

Thus, it is contended that whatever relief stated to have granted in the affidavit now filed by the Joint Secretary that has been taken away by the Director, Higher Education, Odisha by addendum dated 14.11.2022.

5. When the aforesaid letter was confronted to the Joint Secretary to Government, Higher Education Department, it is stated that the

said letter has been issued by the Director without bringing to the notice of the Government. Therefore, he undertakes that the said letter will be withdrawn. Consequentially, it is stated that whatever affidavit he has filed today in Court, the same has to be adhered to and, as such, there will be no change to the same.

6. In the above view of the matter, since the relief sought by the petitioners has been granted, the writ petition stands disposed of.

7. The personal appearance of Mr. Suryanarayan Mohapatra, Joint Secretary to Government, Department of Higher Education, Odisha is dispensed with.

(DR. B.R. SARANGI)
JUDGE

I.A. No. of 2022

Order No.

10.

This matter is taken up through hybrid mode.

2. This application has been filed by the State seeking exemption to deposit Rs.5000/- due to non-filing of counter affidavit, pursuant to order dated 28.09.2022.

3. As it appears, the order dated 28.09.2022 has been passed by Hon'ble Dr. Justice S.K. Panigrahi and, therefore, the same can only be considered by the said Bench. Since the relief sought by the petitioners has already been granted by the authority, the matter may be placed before the appropriate Bench for recalling of the order dated 28.09.2022.

(DR. B.R. SARANGI)
JUDGE

Ashok