

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P(C) No. 7761 of 2018

Indramani Nayak

.....

Petitioner

Mr. A.K. Pattnaik, Advocate

-versus-

State of Odisha and others

.....

Opp. Parties

Mr.P.K. Rout,

Additional Government Advocate

Mr. J.P. Nanda, Advocate

(for O.P.No.5)

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER
30.08.2022

Order No.

5.

1. This matter is taken up through hybrid mode.

2. The petitioner joined as Physical Education Teacher (PET) in Panchayat High School, Budharakadi in the district of Kandhamal as per appointment order issued on 20.09.2009 by the Secretary of the school in pursuance of resolution passed by the Managing Committee. While discharging his duty as such, the petitioner came to know that his name had not been furnished in the renewal application for the academic year 2013 by the school managing committee. He, therefore, submitted a representation addressed to the District Education Officer but no action was taken. As such, he approached this Court in W.P.(C) No.1664 of 2014. By order dated 30.01.2014, the aforesaid writ petition was disposed of with direction to the opposite party no.4 to consider and dispose of the representation of the petitioner in accordance with law. Pursuant to order of this Court, opposite party

no.4 after hearing both sides passed an order 19.11.2014, enclosed as Annexure-4, holding that since the petitioner has tendered his resignation from his post his continuance in the said post cannot be considered and accordingly, his representation was rejected.

Being aggrieved, the petitioner has approached this Court in the present writ application seeking the following relief:-

“It is therefore, prayed that this Hon’ble court be graciously pleased to issue Rule NISI, and after hearing both the parties, adjudge and direct that

1. The office order no.6643/Date 19.11.2014 passed by the opposite party no.4 is liable to be set aside.

2. The present petitioner be reinstated in the Panchayat High School forthwith or in the alternative direct the opposite party no.4 to take a decision on the matter afresh.

And may pass any further order/orders, direction/directions, writ/writs as your lordships deem just and proper.”

3. A counter affidavit has been filed by opposite party no.4, mainly stating that the representation was disposed of after scrutinizing the relevant records and documents and on the ground that the petitioner had himself tendered resignation from the post, which was duly approved by the Managing Committee.

4. Counter affidavit has also been filed by the Headmaster of the school (opposite party no.5). Interestingly, it is stated under paragraph-6 of the counter as follows:-

“6. That in reply to the averments taken in paragraph 8 & 9, it is humbly submitted that the averments made therein are stoutly denied to the extent it the school and its authorities are demonized for the ouster (sic) of the petitioner. In fact there was a misunderstanding that the

petitioner wanted to furnish his resignation. However, after numerous deliberations and considering the representation of the petitioner, we have kept the post vacant as the post in right of the petitioner and legitimately belongs to him. However, as ill luck would have it, the Annexure-3 of the original petition stands as an impediment in absorbing the petitioner back to his original post.”

5. Heard Mr. A. K. Pattnaik, learned counsel for the petitioner, Mr. P.K. Rout, learned Additional Government Advocate for the State and Mr. J.P.Nanda, learned counsel appearing for the opposite party no.5.

6. In view of the specific stand taken by the Headmaster of the school (opposite party no.5) in his counter as quoted hereinbefore, it is evident that nothing further remains to be decided in the present writ application. It appears that the petitioner had submitted his resignation on 27.01.2011, copy of which is enclosed as Annexure-A/4 and the same was accepted by the Managing Committee in its Resolution No.64 dated 27.01.2011, i.e., on the same day, copy of which is enclosed as Annexure-B/4. Nevertheless, it is stated in the counter filed by the opposite party no. 5, that because of misunderstanding, the petitioner wanted to furnish his resignation. Significantly, it has also been stated that a post has been kept vacant, which legitimately belongs to the petitioner, but he is unable to be absorbed because of the order passed by the District Education Officer (opposite party no.4), which is impugned in the present writ application. It is not known whether the stand taken by the Headmaster before this Court, is with the approval of the Managing Committee or not. Be that as it may, since the post of PET is said to be still laying vacant, without expressing any further opinion in the matter, the writ application is disposed of by quashing order dated 19.11.2014 passed by the District Education Officer,

Kandhamal and by directing the opposite party no.5 to reinstate the petitioner in his former post without any further delay after following all procedural formalities.

7. The writ petition is disposed of accordingly.

8. Urgent certified copy of this order be granted on proper application.

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Sashikanta Mishra,
Judge

B.C. Tudu

