

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.213 of 2012

Dandapani Moharana* *Appellant

Mr. Pravat Ranjan Das, Advocate

-versus-

Sri Rabindranath Jena and others* *Respondents

Mr. J. Biswal, proxy counsel on behalf of
Mr. R.P. Dalai, Advocate for Respondent No.1

CORAM:

JUSTICE JASWANT SINGH

JUSTICE M.S. RAMAN

ORDER (Oral)

25.04.2022

Order No.

05.

1. This matter is taken up through virtual/physical mode.
2. The Appellant appears to have been appointed as a Senior Clerk in Kshetra Mohan Science College, Narendrapur, Ganjam (Aided College) upon an interview conducted on 29th September, 1991. In the same selection, one Tuna Dalai was selected for appointment as Clerk-cum-Typist and Sri Rabindranath Jena (Respondent No.1) as Clerk. The dispute arose as regards the release of salary for the said post under the grant-in-aid scheme. The Appellant herein along with Tuna Dalai filed the application bearing G.I.A. Case No.21 of 2008 under Section 24-B of the Odisha Education Act, 1969 claiming that the post against which they were appointed was required to be considered within the fold of grant-in-aid scheme. However, Sri Rabindranath Jena was illegally extended the benefit of release of salary under the grant-in-aid scheme. The aforesaid G.I.A. Case No.21 of 2008 was allowed by the State Education Tribunal, Bhubaneswar vide order dated 31st October, 2009, whereby the claim of

Tuna Dalai and Sri Dandapani Moharana (Appellant herein) for release of salary under the grant-in-aid scheme was allowed while setting aside the said claim qua Rabindranath Jena. Admittedly, Sri Rabindranath Jena has filed FAO No.284 of 2012 in respect of such claim, which is stated to be pending in this Court.

3. It transpires that since the management was not releasing the salary of Sri Rabindranath Jena even on the admissible rates fixed by the management, he filed W.P.(C) No.29613 of 2011, which was disposed of vide order dated 16th November, 2011, which reads as under:

“Heard.

The petitioner in this writ petition has prayed for a direction to opp. parties particularly opp. party no.2 to release the arrear salary and current salary of the petitioner with effect from 1.06.1994 with a stipulated period.

Learned counsel for the petitioner submits that the petitioner has filed a representation under Annexure-3 before the opposite party no.2-Director, Higher Education Orissa, Bhubaneswar, but the same is still pending and yet to be considered.

Considering the limited nature of grievance raised by the petitioner, the writ petition is disposed of directing the opp. party no.2 to consider and dispose of the representation of the petitioner under Annexure-3 within a period of three months from the date of receipt of a certified copy of this order in accordance with law.

If the petitioner is entitled to the benefit, the same shall be made available to the petitioner within a period of two months thereafter.”

Against the aforesaid innocuous order/relief granted, the Appellant has filed the present writ appeal on the ground that the said order has been passed without impleading the Appellant herein in the writ petition filed by Sri Rabindranath Jena.

4. This Court while issuing notice vide order dated 23rd July, 2012 has stayed the operation of the aforesaid order passed by the learned Single Judge.

5. After hearing counsel for the Appellant, we have failed to understand as to how the Appellant could possibly raise a grievance for claim of Sri Rabindranath Jena (Respondent No.1) for release of salary at the admissible rates set by the management for the periods he has worked as clerk or otherwise.

6. In view of the above, the aforesaid order dated 16.11.2011 in no manner prejudices any right of the Appellant herein. Hence, this present writ appeal being devoid of any merit stands dismissed with cost of Rs.5,000/- to be deposited with DLSA, Ganjam within two months from today.

Issue urgent certified copy as per Rules.

(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Jyostna

April 25th, 2022
Cuttack