

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) NO.11693 OF 2022

Mamata Mohapatra

....

Petitioner

Mr.,Swadha Rath, Advocate

-versus-

State of Odisha & Ors.

....

Opp.Parties

*Mr.B.Mohanty,,SC
(for S & M.E Deptt.)*

CORAM:
THE JUSTICE S. K. PANIGRAHI

ORDER
11.05.2022

Order No

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1. This matter is taken up by hybrid mode.
- 2 Heard Mr Swadha Rath learned counsel for the Petitioner and Mr.B.Mohanty learned Standing Counsel appearing for the School and Mass Education Department.
3. The present writ petition has been filed by the Petitioner seeking for a direction to the Opposite Parties to extend the benefit of antedated promotion to the post of Jr.S.E.S as has been done in many similar other cases and further the petitioner has prayed for a direction to the authorities to calculate and pay the differential arrear dues payable to the Petitioner on such antedated promotion to the post of Jr.S.E.S.
4. It is submitted by the learned counsel for the Petitioner that as per Rule 10-A of Orissa Subordinate Education Service Rules, 1972, LSES cadre teachers on completion of three years of service with B.Ed qualification are eligible for promotion to Jr.

SES cadre. Further, as per Rule 10(B)(ii) of the said Rule the selection committee shall meet once a year ordinarily during the 1st week of April and prepare a list of persons eligible for appointment by way of selection under Rule 10-A of the aforesaid rule.

5. It is further submitted by the learned counsel for the Petitioner that following the aforesaid Rule, the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in many cases had given direction to give the benefits as prayed for by the Petitioners.

6. It is also submitted by the learned counsel for the Petitioner that the orders passed by the learned Tribunal has attained finality as the same has not been challenged before any higher forum. Moreover, the orders passed the learned Tribunal has also been given effect to by the Government of Odisha by following the law laid down in the foresaid two cases has extended similar benefits in numerous cases.

7. In ***Binod Kumar Singhal vs. Union of India***, reported in **1994(2) SLR 695** it has been decided that departmental promotion committee is required under the institution to meet every year such selecting persons for promotion on regular basis. Vacancy occurring during the relevant year cannot be clubbed together and as such the zone of consideration cannot be enlarged.

8. Further the learned counsel for the Petitioner relies upon the judgment of the Hon'ble Supreme Court of India in the matter of ***K. Shephard and others vrs. Union of India***, reported in **(2008) 9 SCC 24** has laid down the law to the effect that once a

decision is rendered by any court of law and it is implemented by the authorities, such benefits are to be extended to similarly placed persons.

9. It is further submitted by the learned counsel for the Petitioner that keeping in view the aforesaid proposition of law, the Petitioner intends to file a fresh representation before the authority taking all the grounds available in support of his claim and the authorities be directed to consider the case in accordance with law within a stipulated period of time.

10. The learned counsel appearing for the School & Mass Education department submits that the matter needs to be examined by the concerned authority whether the Petitioner is entitled to get such benefit or not. However, he further submits that if a direction is given to the authority to consider the case of the Petitioner in accordance with how he will have no objection to that.

11. Having heard learned us for the parties and upon perusal of the records and various judgments cited before this Court, this Court considers that the interest of justice will be best served if the present writ petition is disposed of with a direction to the petitioner to file a fresh representation taking all the grounds available in support of his claim within a period of two weeks from today along with a certified/authenticated copy of this order before Opposite Party No.2. In the event such a representation is filed, the Opposite Party No.2 shall do well to consider the same in accordance with law and keeping in view the aforesaid analysis of law and shall dispose of the representation by passing a speaking and reasoned order. The

decision so taken shall be communicated to the petitioner within a period of 10 days thereafter.

12. With the aforesaid observation the writ petition is disposed.

(S. K. Panigrahi)
Judge

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