

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 2562 of 2016

Bikram Chandra Mohapatra

.....

Petitioner

Mr. P.C. Acharya, Adv.

Vs.

State of Odisha and others

.....

Opposite parties

Mr. S. Jena, Standing Counsel S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

13.04.2022

I.A. No. 9263 of 2020

Order No.

06.

This matter is taken up through hybrid mode.

2. This application has been filed seeking substitution of legal representatives of deceased petitioner.

3. Considering the grounds taken in the application and after hearing learned counsel for the petitioner, prayer for substitution is allowed. Consolidated cause title, bringing legal representatives of the deceased petitioner on record, be filed within a week.

4. I.A. stands disposed of.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

W.P (C) No. 2562 of 2016

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. P.C. Acharya, learned counsel for the petitioner and Mr. S. Jena, learned Standing Counsel for School and Mass

Education Department.

3. The petitioner has filed this writ petition challenging the common order dated 26.05.2011 passed in O.A. Nos.1004, 1005 and 1006 of 2007, by which the Orissa Administrative Tribunal, Cuttack Bench, Cuttack, by observing that the judgment of the apex Court in the case of Selvaraj v. Lt. Governor, Island, Port Blair, AIR 1999 SC 838 has no application to the case, denied the claim made by the petitioner.

4. Similar matter had come up for consideration before this Court in W.P.(C) No.13167 of 2012 and batch (*State of Odisha v. Banchanidhi Das*, disposed of on 28.03.2022), wherein this Court, by observing that as the opposite party therein, in addition to his substantive post of Assistant Teacher, was carrying on higher responsibility by discharging the duty of Headmaster-in-charge/Acting Headmaster, he may be entitled to “charge allowance”, directed the State-petitioners to consider and release “charge allowance” in favour of the opposite party for having discharged higher responsibility remaining in the substantive post of Assistant Teacher, which is admissible in the service law applicable to the opposite party.

5. In the above view of the matter, the order of the tribunal dated 26.05.2011 passed in O.A. Nos.1004, 1005 and 1006 of 2007 by the tribunal, so far as it relates to the petitioner, cannot sustain and the same is hereby quashed. The State-opposite parties are directed to extend the benefit to the petitioner as he has discharged the duty against the substantive post of Assistant Teacher and carrying on higher responsibility by discharging the duty of Headmaster/Acting Headmaster, and release the “charge

allowance” in favour of the petitioner for having discharged higher responsibility remaining in the substantive post of Assistant Teacher, which is admissible in the service law applicable to the petitioner, as expeditiously as possible preferably within a period of three months from the date of production of certified copy of this order.

6. The writ petition is accordingly disposed of.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok/Sukanta

(SAVITRI RATHO)
JUDGE

