

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 22043 of 2017

<i>Sudarsan Santara and another</i>		<i>Petitioners</i> <i>Mr.B. Routray, Sr. Advocate, along with Mr. S.D. Routray, Advocate</i>
	Vs.	
<i>State of Orissa and others</i>		<i>Opposite parties</i> <i>Mr. D.R Mohapatra, Standing Counsel for S&ME Deptt.</i>

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

14.03.2022

Order No.

11.

This matter is taken up through hybrid mode.

2. Heard Mr. B. Routray, learned Senior Advocate along with Mr. S.D. Routray, learned counsel for the petitioners and Mr. D.R. Mohapatra, learned Standing Counsel for S&ME Department.

3. The petitioners have filed this writ application seeking to quash the order dated 19.07.2017 passed by the Odisha Administrative Tribunal in O.A. No. 416 (C) of 2009 and directing the opposite parties to regularize their service from 1977 to 2003 within a reasonable time to be stipulated by this Court.

4. Mr. Routray, learned Senior Advocate contended that pursuant to advertisement issued on 27.02.1997 for filling up 32 posts of Teacher Educator, the verification of the documents was held on 14.05.1997 and appointment order was issued to all candidates including the petitioners on 31.05.1997. Selection process was cancelled and consequent thereof, the appointment orders were also cancelled on 27.06.1997. The petitioners were

relieved from the post on 04.07.1997. Accordingly petitioner No.1 approached the tribunal in O.A. No. 2293 (C) of 1997. However the tribunal did not incline to entertain the O.A. and directed for fresh appointment to the selected teachers, who had joined and whose service had been terminated, clearly mentioning that the appointments shall be subject to regular selection. Petitioner No.2 also approached the Tribunal by filing O.A. No. 1553 of 1997 and the tribunal vide order dated 18.07.1998 quashed the Government order dated 27.06.1997 and informed the respondent no.2 in the O.A. that the selection already conducted was cancelled and the order dated 30.06.1997 by the Director in compliance to that communication cancelling the appointment of the applicants as Teacher Educator and directed that the applicants should be allowed to continue in the post in which they had joined in accordance with the direction given to them in the appointment order dated 31.03.1997. As a consequence thereof, the petitioners were allowed to continue in service. Thereafter the order passed in O.A. No. 1553 of 1997 was challenged by the State Government in OJC No. 14948 of 1998 and this Court after hearing the parties vide order dated 08.10.2002 directed the opposite parties to constitute a fresh Selection Committee and confine the recruitment/selection to the opposite parties 1 to 20, who are the applicants before the Tribunal. The petitioner no.1 also approached this Court in OJC No. 3288 of 1998 for a direction to allow him to continue till the newly constituted selection committee is made and this Court passed an order on 05.2.2002 with an observation that “we may add here that if the petitioner, Sudarsan Santara is continuing as Teacher Educator, D.I.E.T., Phulbani at Tikabali, he would continue as such till his matter is

finalized by the newly constituted Selection Committee”. However, the petitioner along with 20 others was retrenched on 24.05.2003. The petitioners were again appointed on 13.08.2003 with 81 days gap. A letter was issued by the opposite parties to make entries in their existing service book instead of insisting for opening a new service book. Thereafter, the petitioners filed representation for regularization of their service, which was rejected. Therefore, they approached the Tribunal in O.A. No. 461 (C) of 2009. Opposite party no.2 issued a letter to the opposite party no.1, wherein the opposite party no.2 considered the case of the petitioners in the light of the finance department circular dated 22.04.1981 and requested to consider the case of the petitioners for regularization. In this process, Shri Balabhadra Pujapanda and Shri Kaira Munda, who stand in the same footing with that of the petitioners, their services were regularized. One such document has been filed so far as Shri Kaira Munda is concerned, i.e. the letter dated 04.12.2020 under Annexure-F/2, whereas the petitioners have been discriminated. Therefore, they have approached this Court in the present writ petition.

5. Mr. D.R. Mohapatra, learned Standing Counsel for School & Mass Education Department contended that since two of the opposite parties, i.e. opposite party nos. 2 and 14, in OJC No. 14948 of 1999, which has been filed the opposite party-State, their services have been regularized, the petitioners ought to have been regularized at par with opposite parties 2 and 14.

6. Having heard learned counsel for the parties and after going through the record, it appears that the benefit has already been extended to similarly situated persons, namely Shri Balabhadra Pujapanda and Shri Kaira Munda, who are the opposite parties 1

and 14 in OJC No. 14948 of 1999, which has been filed by the State challenging the judgment dated 18.07.1998 passed by the Tribunal, the petitioners having stood in the same footing, the benefits cannot be denied to him, otherwise it will violate Article 14 of the Constitution of India.

7. In view of the above, this Court is of the considered opinion that the order dated 19.07.2017 passed by the Tribunal in O.A. No. 416 (C) of 2009 cannot sustain in the eye of law and liable to be quashed, and hereby quashed. The opposite parties are directed to regularize the service of the petitioners at par with their counterparts, i.e. Shri Balabhadra Pujapanda and Shri Kaira Munda, who are opposite parties 1 and 14 in OJC No. 14948 of 1999, as expeditiously as possible, preferably within a period of two months, from the date of communication of the order.

8. With the above observation/direction, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun/Bichi

(SAVITRI RATHO)
JUDGE