

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 17163 of 2022

Kapil Kumar Swain & Ors.

.....

Petitioners

Mr. S.K. Rath, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Standing Counsel S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

16.11.2022

Order No.

02

This matter is taken up by video conferencing mode.

2. Heard Mr. S.K. Rath, learned counsel for the petitioners and learned Standing Counsel for School and Mass Education Department.

3. The petitioners have filed this application seeking direction to the opposite parties to allow the petitioners to avail the leave benefits under the Orissa Education (Leave of Teachers and other Members of the Staff of Aided Educational Institutions) Rules, 1977, retrial and pensionary benefits under the Orissa Aided Educational Institutions' Employees Retirement Benefit Rules, 1981 and GPF benefit under the Orissa Aided Educational Institutions Employees' General Provident Funds Rules, 1983, as they are employees of an aided educational institution.

4. Mr. S.K. Rath, learned counsel for the petitioners contended that since the petitioners are working in an educational institution receiving block grant, in view of the judgment passed in *Ritanjali Giri @ Paul v. State of Odisha (School & M.E. Deptt.) & others*, 2016 (I) ILR-1162

wherein this Court has already held that the legal heirs of deceased employees of educational institutions receiving block grant are entitled to get compassionate appointment, pursuant to which the Government of Odisha in the Department of School & Mass Education has issued a circular on 01.08.2019 granting benefit of compassionate appointment to the legal heirs of the deceased employees working in fully aided educational institutions and educational institutions receiving grant-in-aid (New)/block grant, therefore, other benefits as claimed in the writ application should be extended to the petitioners.

5. Learned Standing Counsel for School and Mass Education Department contended that in view of law laid down in **Ritanjali Giri @ Paul** (supra) although benefit of compassionate appointment to the legal heirs of the deceased employees of educational institutions receiving block grant has already been extended by the State Government, pursuant to letter dated 01.09.2019, but so far as other claims as made in this writ application, the petitioners are not entitled to get the same, as because the benefit of Grant-in-Aid Order, 1994 was denied by this Court in **State of Odisha v. Sri Lokanath Behera**, 2018 (II) OLR 932, which has been confirmed by the apex Court in Civil Appeal No. 7295 of 2019 arising out of SLP(C) No. 8343 of 2019 disposed of on 16.09.2019.

6. Considering the contentions raised by learned counsel for the parties and after going through the record, this Court is of the considered view that since the benefit of compassionate appointment to the legal heirs of deceased employees of educational institutions receiving block grant

has already been extended by the authority, vide circular dated 01.08.2019, therefore, without expressing any opinion on the merits of the case, the matter is remitted back to the authority concerned for consideration with regard to extension of other benefits as claimed in the writ application taking into account the ratio decided in ***Ritanjali Giri @ Paul*** (supra) within a period of four months from the date of communication of this order. Needless to mention, if it is found that the petitioners are entitled to get all the benefits, as claimed in the writ application in consonance with the law laid down in ***Ritanjali Giri @ Paul*** (supra), the same shall be granted within the time stipulated.

7. The writ petition is thus disposed of.
8. Issue urgent certified copy as per rules.

Arun

(Dr. B.R. Sarangi)
Judge

