

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 748 of 2008

Kanak Pratima Dash

....

Petitioner

Mr. R.K. Bisoi, Adv.

-Versus -

State of Odisha and another

....

Opposite Parties

Mr. H.K. Panigrahi, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

06.01.2022

Order No.
01

This matter is taken up through hybrid mode.

2. The petitioner, who was working as a Sevika, has filed this writ petition claiming salary for the period from 16.04.2005 to 28.08.2007, i.e., from the date of dismissal of W.P.(C) No.1286 of 2003 by this Court.

3. Mr. R.K. Bisoi, learned counsel for the petitioner contended that challenging the illegal termination from service, the petitioner approached the tribunal which was disposed of, vide order dated 20.06.2000, directing the authority to reinstate the applicants therein. Challenging the order dated 20.06.2000 passed by the tribunal in Annexure-3, State preferred writ petition bearing W.P.(C) No.1286 of 2003, which was dismissed vide order dated 15.04.2005. Consequence thereof, the order of the tribunal has been made confirmed and, as a result of which the petitioner the

petitioner has to continue in service pursuant to dismissal of the writ petition, i.e., from 16.04.2005. But effectively, the order of reinstatement has been passed on 29.08.2007, i.e., after more than two years after the order passed by this Court. Therefore, the petitioner claims the salary for the period for which she has been kept out of service, though she is entitled to get such benefit.

4. Mr. H.K. Panigrahi, learned Addl. Standing Counsel contended that for the period the petitioner claims salary, she is not entitled to such benefit, as she had not rendered service for the said period. It is contended that pursuant to order under Annexure-6/1 dated 29.08.2007 since the petitioner was reinstated in service, she is only entitled to get continuity in service because of the setting aside of the order of termination by the tribunal. But for the period she had not rendered service, she is not entitled to get the salary, as has been claimed in the writ petition.

5. Having heard learned counsel for the parties and after going through the records, this Court finds that the termination of the petitioner has been declared as illegal by the tribunal and the tribunal vide order dated 20.06.200 held that the order of termination has been made without complying the principle of natural justice and, as such, the order has been issued in violation of the said principle. Therefore, the tribunal quashed the order of termination dated 12.05.1997 and directed the authority to allow the petitioner to resume the duty pursuant to the order of appointment. The tribunal also clarified that the petitioner will not be entitled to the monetary benefits during the period when she was out of service. The said order was

challenged before this Court in W.P.(C) No.1286 of 2003 and vide order dated 15.04.2005, this Court dismissed the said writ petition. As a result of which, the order of the tribunal has been made confirmed. Consequence there of, the petitioner is entitled to resume her duty and is entitled to the benefit as due and admissible to the post. But the opposite parties have allowed the petitioner to resume her duty w.e.f. 29.08.2007, pursuant to which she joined and continued in service. The petitioner claims that she is entitled to the salary for the period from 16.04.2005 to 29.08.2007, though she had not discharged the duty for the said period. In such view of the matter, this Court is of the considered view that since the petitioner has not rendered the duty for the aforesaid period, she is not entitled to get the salary for the said period. As such, the petitioner is only entitled to the benefit of continuity of service.

6. With the aforesaid observation, the writ petition stands disposed of.

Ashok

(Dr. B.R. Sarangi)
Judge