

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 1908 of 2016

Jeevan Kumar Sahoo

.....

Petitioner

Mr. H.B. Dash, Adv.

Vs.

State of Orissa and others

.....

Opposite Parties

Mr. S. Jena, Standing Counsel S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

08.04.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. The petitioner has filed this writ petition challenging the common order dated 03.06.2014 passed in O.A. No.1401 of 2013 (P.P. No. 311 of 2012) and batch, by which his claim to bring him into the fold of OCS (Pension) Rules, 1992, as he was appointed as a contractual employee prior to the cut-off date, i.e., 01.01.2005, has been denied.

3. Mr. H.B. Dash, learned counsel for the petitioner contended that the petitioner was initially joined as a contract teacher on 16.02.2004 and, as such, on continuous service of six years, he became a regular teacher. In view of the Government circular dated 05.04.2007 under Annexure-3, since the petitioner was appointed prior to the cut-off date, i.e., 01.01.2005, he is entitled to get the benefit.

4. Having heard learned counsel for the petitioner and after going through the records, this Court finds that the tribunal, after hearing a batch of cases relating to Sikhya Sahayak and after

considering all aspects held that the petitioner was initially engaged as Sikhya Sahayak and thereafter as Junior Teacher, which are not civil posts and, as such, he was engaged under a particular scheme. He was absorbed as regular teacher after completion of six years of service under the scheme and that there is no rule for counting the seniority of the petitioner on the basis of his date of joining as Sikhya Sahayak or Junior Teacher and also there is no provision for making him eligible for minimum pension taking into account his initial date of joining as Sikhya Sahayak/Junior Teacher. The tribunal, further held that keeping in view the amended OCS (Pension) Rules, 1992 to the effect that all persons appointed under the Government of Odisha with effect from 1st day of January 2005, shall not be eligible for pension as defined under sub-rule (1) of rule-3 of the said rules, but shall be covered by the defined contribution pension scheme and since the petitioner was appointed in regular establishment after the cut off date, i.e., 01.01.2005, he shall be covered by the Defined Contribution Pension scheme, as per the amended Pension Rules, which have been framed under Article 309 of the Constitution, so also since the petitioner has not challenged the amended rule, the claim of the petitioner to extend OCS (Pension) Rules prior to 01.01.2005 in his favour, cannot be entertained.

5. So far as the reliance placed on the document by learned counsel for the petitioner, which has been placed before the tribunal, vide Annexure-3 dated 05.04.2007, wherein Government has clarified that the persons under job-contract and work charged establishment prior to 01.01.2005 and brought over to the regular establishment on or after 01.01.2005 shall not come under the

coverage of the OCS (Pension) Amendment Rules, 2005 as notified in Finance Department Notification dated 17.09.2005, has no application to the present case, as because the petitioner was initially appointed as contractual teacher, as stated by learned counsel for the petitioner, and thereafter appointed in the regular post after commencement of OCS (Pension) Amendment Rules, 2005.

6. In the above view of the matter, this Court does not find any illegality or irregularity apparent on the face of the order impugned passed by the tribunal so as to cause interference with the same.

7. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Puspa