

IN THE HIGH COURT OF ORISSA AT CUTTACK

FAO NO.798 OF 2019

From the Judgment/Order dated 20.08.2019 passed by the learned State Education Tribunal (in short 'Tribunal') in GIA Case No.114 of 2019 as well as the order dtd.07.01.2019 passed by the O.P. No. 2 under Annexure-9.

Smt. Ipanjali Nayak

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Appellant

-:: VERSUS ::-

State of Odisha & Anr.

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Respondents

Appeared in this case by Video Conferencing Mode / Hybrid

Mode.

For Appellant

:::: Mr. S.K. Mishra, Advocate
(for Appellant)

For Respondent

:::: Mr. B. Mohanty, Standing counsel
(for Department)
Mr. N. Biswal, Advocate
(for Respondent No. 3)

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PRESENT :

THE HON'BLE MR. JUSTICE B.P.SATAPATHY

Date of Hearing- 12.07.2022:: Date of Order- 20.07.2022

B.P.Satapathy, J. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. S.K. Mishra, learned counsel appearing for the Appellant, Mr. B. Mohanty, learned standing counsel appearing for the Department and Mr. N. Biswal, learned counsel appearing for the Respondent No. 3.

3. This appeal has been filed by the Appellant challenging the Order dtd.20.08.2019 passed by the learned State Education Tribunal (in short 'Tribunal') in GIA Case No. 114 of 2019 as well as the order dtd.07.01.2019 passed by the O. P No. 2 under Annexure-9.

4. It is submitted that seeking direction on the Opp. Parties to approve the appointment of the Appellant for the purpose of release of grant-in-aid in his favour as per the GIA Order 2014, the Appellant filed GIA case No. 114 of 2019. It is submitted that the Appellant was duly appointed as lecturer in Botany in the college of Respondent No. 3 vide order dtd.04.09.2006 and pursuant to the said order the Appellant joined in the said post on 04.09.2006 itself. It is further submitted that the appointment and joining of the Appellant was subsequently approved by the Governing body of the College in its proceeding dtd.02.11.2012.

5. It is further submitted that since after coming into effect of the GIA Order 2014, the service of the Appellant was not approved enabling her to get the benefit of the said order, the Appellant approached the learned Tribunal in GIA Case No. 114/2019. It is submitted that learned Tribunal without proper appreciation of the Appellant's claim, dismissed the application on the very first date vide order dtd.20.08.2019. It is also submitted that learned Tribunal without proper appreciation of the relevant provision

contained in the GIA Order 2014 came to a finding that since the services of the Appellant has been approved beyond the cut-off date i.e. 31.05.2010, the Appellant is not entitled to get the benefit of the said order.

6. Mr. Mishra, learned counsel for the Appellant submitted that learned Tribunal by misinterpreting the provision of Order 3 and Order 8(6) of the G.I.A. Order 2014, rejected the prayer of the Appellant at the threshold.

7. Order 3 of the grant-in-aid order 2014 provide that the teaching and non-teaching staff of the Non-Govt. Aided Colleges, which are covered under the Odisha (Non-Govt. Colleges, Junior Colleges & Higher Secondary Schools) Grant-in-Aid, 2008 and Odisha (Aided Colleges, Aided Junior Colleges and Aided higher Secondary Schools) Grant-in-Aid order 2009 who joined on or before 01.06.2008 in respect of Educationally Advanced Districts and on or before 01.06.2010 in respect of Educationally Backward District and Women's Educational Institutions are eligible to get 40% Block grant, 60% Block grant after completion of three (3) years , 75% after completion of six (6) years and 100% after completion of eight (8) years.

8. Similarly Order 8 Rule 6 of the said order provide that the date of eligibility of a post for which grant-in-aid in shape of Block grant has not been sanctioned shall be the first day of the academic year following the date on which an approved post completes the qualifying period as applicable to the post. It is also provided that the date of eligibility in respect of a post in an educational institution shall in no case be a date after 01.06.2008 in

Educationally Advanced District and be a date after 01.06.2010 in Educationally Backward District and Women's Educational Institution.

9. It is submitted that since the Appellant has joined in the college in question on 04.09.2006 as against the approved post, the reason assigned by the learned Tribunal while rejecting the application is contrary to the provision contained under order 3 and order 8(6) of the GIA order 2014. It is also submitted that learned Tribunal by misconstruing the aforesaid provision held that since the services of the Appellant was approved by the Governing Body. after 31.05.2010, the Appellant is not entitled to get benefit of the order. It is accordingly submitted that since learned Tribunal without proper appreciation of the said provision and without affording reasonable opportunity, rejected the application on the very first date, the said order is liable to be set aside by this Court.

10. Mr. Mohanty, learned standing counsel on the other hand submitted that learned Tribunal should have considered the matter in the light of the provision contained under Order 3 and Order 8(6) of the Grant-in-Aid order 2014. It is also submitted that learned Tribunal rejected the application without giving notice to the other Parties.

11. Mr. Biswal, learned counsel appearing for the Respondent No. 3 on the other hand submitted that the Appellant was appointed as against the sanctioned post where he joined on 04.09.2006. Therefore, the stipulation contained in GIA order 2014 and relied on by the Appellant is applicable to the facts of the present case.

12. Heard learned counsel for the Parties. Perused the provision contained under Order 3 and Order 8(6) of the GIA order 2014. After going through the same, this Court finds that since the Appellant was appointed and joined prior to the cut-off date as against the sanctioned post, the finding of the learned Tribunal that services of the Appellant having been approved by the governing body after the cut-off date and accordingly, she is not entitled to get the benefit of the order, as per the considered view of this Court is not legal and justified.

13. Therefore, while interfering with the same, this Court quash the said order and remand the matter to the learned Tribunal for fresh disposal. This Court directs the learned Tribunal to re-decide the matter by giving opportunity of hearing to all concerned.

14. Since the Appellant is continuing in the post since 2006 and going without any aid, this Court directs the learned Tribunal to dispose of the proceeding on such remand within a period of six (6) months from the date of receipt of this order.

15. The appeal is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
The 20th July, 2022/Sneha