

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 22469 of 2022

Bharat Deep

.....

Petitioner

Mr. P. Panda, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr. S. Jena, SC, S&ME Deptt

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

28.10.2022

Order No.

03

This matter is taken up through hybrid mode.

2. Heard Mr. P. Panda, learned counsel appearing for the petitioner and Mr. S. Jena, learned Standing Counsel for School & Mass Education Department.

3. The petitioner has filed this writ petition seeking to quash the order dated 29.08.2022 under Annexure-6 passed by the Director, Elementary Education Orissa, whereby the prayer of the petitioner for mutual transfer was rejected because of mismatch of their qualification in the application, i.e. CT (+3 Arts) with CT (+2 Arts), in view of the guidelines stipulated vide Government Notification No. 22167/SME dated 04.10.2018.

4. Mr. P. Panda, learned counsel appearing for the petitioner contended that the petitioner is an Assistant Teacher (regular), who seeks transfer against Assistant Teacher (regular) as per Clause-2 A (h) of the Notification dated 04.10.2018. But without any application of mind, the order of rejection under Annexure-6 was passed, for which he has approached this Court in the present writ petition.

5. Mr. S. Jena, learned Standing Counsel for School & Mass Education Department contended that no doubt the petitioner seeks mutual transfer from Assistant Teacher (regular) to Assistant Teacher

(regular), but that should be in conformity with the stipulations made in Clause 2 A (h) of the Notification dated 04.10.2018. As the petitioner is CT (+3 Arts) and wants mutual transfer against CT (+2 Arts), in view of the guideline, the inter district transfer is not permissible. Therefore, the order impugned is well justified and does not require any interference by this Court at this stage.

6. Having heard learned counsel for the parties and after going through the records, though the transfer policy has been framed by the Government in School & Mass Education Department on 04.10.2018, but Clause 2 A (h) reads as follows:-

“The mutual transfer will be made only against same category of Govt. Elementary teachers/ headmasters, i.e. Asst. Teacher (regular) against Assistant Teacher (regular) or regular Level-IV Headmaster against regular Level-IV Headmaster or regular Level-III Headmaster against regular Level-III Headmaster, Science graduate with Science graduate, Arts graduate with Arts/ Commerce graduate, Commerce Graduate with Commerce/Arts graduate, +2 Science with +2 Science, +2 Arts/Commerce with +2 Arts/Commerce, B.Ed with B.Ed, D.El.Ed. with D.El.Ed. ST against ST, SC against SC & Pwd against Pwd. However, teachers, belonging to General can be transferred against OBC/SEBC and vice-versa.”

7. There is no dispute with regard to the fact that petitioner is continuing as Assistant Teacher (regular) and seeks mutual transfer as against Assistant Teacher (regular), but fact remains such transfer can only be made if they possess the same qualification. The afore-quoted clause clearly specifies that transfer can be made person having Science graduate with Science graduate, Arts graduate with Arts/ Commerce graduate, Commerce Graduate with Commerce/Arts graduate, +2 Science with +2 Science, +2 Arts/Commerce with +2 Arts/Commerce, B.Ed with B.Ed, D.El.Ed. with D.El.Ed. ST against ST, SC against SC

& Pwd against Pwd. Admittedly the petitioner is a +3 Arts (CT) holder and seeks mutual transfer against a person having +2 Arts (CT), which is not permissible under Clause 2A (h) of the Notification dated 04.10.2018. Thereby the order dated 29.08.2022 is well justified and does not require any interference by this Court.

8. In view of the above, the writ petition merits no consideration and the same stands dismissed.

Arun

(DR. B.R. SARANGI, J.)

