

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 3692 of 2010

Saiyed Mazhar Tawheed

.....

Petitioner

Mr. R. Acharya, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

*Mr. B. Mohanty, Standing Counsel for
S&ME Department*

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

09.02.2022

Order No.

1

This matter is taken up through hybrid mode.

2. Heard Mr. Acharya, learned counsel for the petitioner and Mr. B. Mohanty, learned Standing Counsel for School & Mass Education Department.

3. The petitioner files this writ petition seeking direction to the opposite parties to regularize the service period of the petitioner from 09.09.2009 to 18.09.2010.

4. Mr. Acharya, learned counsel for the petitioner contended that the petitioner who is continuing as a clerk wants to be appointed as a Section Teacher having the requisite qualification, but he has been transferred and posted to work at Sadhu Charan U.P. School, Babujanga with immediate effect. Therefore, he has approached in the present writ petition.

5. Mr. Mohanty, learned Standing Counsel for School and Mass Education Department contended that the petitioner's claim for giving him appointment as Section Teacher does not arise as he was working as a Clerk and allowed to discharge as Clerk, therefore, the question of regularization as Section Teacher does not arise.

6. Having heard learned counsel for the parties and after going through the record, admittedly the petitioner has been transferred and the same was kept in abeyance until further order. Consequence thereof the said order was withdrawn with immediate effect. Thereafter the petitioner submitted a letter to opposite party no.2 that the opposite party no.3 has passed an order on 18.08.2009 keeping the order of transfer in abeyance until further orders, but after few days the opposite party no.3 passed an order to withdraw the kept-in-abeyance order without any reason. Consequence thereof the petitioner was relieved from duty with effect from 11.11.2009 and was directed to join in new place of assignment at Sadhu Charan U.P. School, Babujanga, where the petitioner did not join. Thereafter the petitioner approached the Tribunal by filing O.A. no. 3082 (C) of 2009 and as per the direction, an order was passed on 18.09.2010 for continuance of the petitioner in Biswanathpur U.P. School, Biswanathpur. The claim of the petitioner is to regularize his service from 01.09.2009 to 18.09.2010 claiming that he was serving in the said school during that period and thereby he wants continuity in service. Though the petitioner was relieved from the duty, but subsequently he joined pursuant to the order of the opposite parties. Therefore, the said period i.e. from 01.09.2009 to 18.09.2010 ought to have been considered by the authority in accordance with law and consequence thereof, the said period can be regularized in service.

7. With the above observation/direction the writ petition stands disposed of.

8. Issue urgent certified copy as per rules.