

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C(OAC) No.4188 of 2010

*Sanjay Kumar Malla*

....

*Petitioner*

Mr. D. Routray,  
Advocate

-versus-

*State of Odisha & others*

....

*Opposite Parties*

Mr. H.K.Panigrahi,  
Addl. Standing Counsel

**CORAM:**

**JUSTICE SASHIKANTA MISHRA**

**ORDER**  
**22.4.2022.**

**Order No.**

08.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Petitioner and learned Addl. Standing Counsel for the State.
3. The Petitioner has filed the present Application seeking the following reliefs:-

*“(a) Admit the Original Application.*

*(b) Call for the records.*

*(c) The impugned advertisement dated under Annexure-9 may be quashed. The respondents be directed to regularize the services of the applicant as against the*

*post of Trained Graduate Teachers and allow the applicant to pay the Trained Graduate Scale with effect from the date of transfer of the applicant to the upgraded High School to High School i.e. with effect from 15.7.2008.*

*(d) And may pass such other appropriate orders as this Hon'ble Tribunal may think fit and proper."*

4. The sum and substance of the case of the Petitioner is that he was initially engaged as Swechha Sevi Sikhya Sahayak having trained graduate qualification w.e.f. 20<sup>th</sup> August, 2001 on consolidated remuneration of Rs.3,000/- per month. After completion of six years of qualifying service as such, the Petitioner was regularized as Primary School Teacher w.e.f. 1<sup>st</sup> April, 2008. After regularization, the School in which the Petitioner was working namely, Government Upgraded High School, Katarpa, Salipur, Cuttack, was upgraded by opening Class-VIII by order dated 4<sup>th</sup> April, 2008 and the Petitioner was asked to teach in the said class. Subsequently, the State Government decided to open Class-IX and Class-X by order dated 30<sup>th</sup> May, 2009 and 12<sup>th</sup> April, 2010 respectively. The Petitioner claims that he was asked to teach in such higher classes, but is getting the salary of a Primary School Teacher. Therefore, he seeks a direction to the authorities to regularize his service as a Trained Graduate Teacher in the upgraded High School keeping in view the yardstick prescribed by the State Government for Secondary Schools having Classes VIII, IX

and X and to extend all benefits of the Trained Graduate Teachers.

5. It also appears that the Petitioner has approached this Court in W.P.(C) No.434/2011 challenging the order dated 24<sup>th</sup> December, 2010 passed by the erstwhile Orissa Administrative Tribunal in O.A. No.4188(C) of 2010, whereby it was directed that the status of the Petitioner should not be affected adversely till filing of the counter and its adjudication. After hearing the parties, a Division Bench of this Court vide order dated 17<sup>th</sup> January, 2011 passed in the aforesaid Writ Petition held that “status of the petitioner” shall be construed as a Teacher teaching in a higher class.

6. In course of hearing Mr. R.N.Acharya, learned Standing Counsel for the School and Mass Education Department, submits that the decision in this regard has to be taken by the appropriate authority, i.e. the Government.

7. Undoubtedly, the question of allowing the Trained Graduate Scale to the Petitioner, who is admittedly regularized as a Primary School Teacher on the ground that he has Trained Graduate qualification and is also teaching in higher classes, has to be taken by the concerned authority at the first instance. For such purpose, the Petitioner is required to approach the concerned authority.

8. Learned counsel for the Petitioner fairly submits, in course of hearing, that the Petitioner has not approached the concerned authority with his grievance as yet.

9. Having regard to the facts narrated above and the submissions of learned counsel for the parties, it is deemed proper to grant liberty to the Petitioner to approach the concerned authority by submitting a representation ventilating his grievances. If such a representation is submitted within a period of one month from today before the Commissioner-cum-Secretary, School and Mass Education Department, Bhubaneswar (Opposite Party No.1), the same shall be considered and disposed of in accordance with law within a period of two months thereafter and the decision shall be communicated to the Petitioner.

10. The WPC (OAC) is disposed of accordingly.

*AKB*

*(Sashikanta Mishra)*  
*Judge*