

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 1130 of 2018

Prajnya Bhusan Pattnaik

....

Petitioner

Mr. S.N. Patnaik, Advocate

- Versus -

State of Odisha & Others

.... **Opposite Parties**

Mr. R. Acharya,
Standing Counsel for School and Mass
Education Department

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

22.04.2022

Order No.
02.

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 writ petition seeking following relief;

“i. To direct authority to suitably modify office order dated 16.1.2016 so far as it relates to counting the period of seniority of the applicant from the date of joining in Group-C post and issue appropriate order to count his seniority from the date when the order candidates like Sri Ashok Kumar Saran upto Sasmita Priyadarshini Rout were appointed under the Rehabilitation Assistance Scheme as against recruitment year 2008 so also to extend all consequential service and financial benefits, protecting his right against a Class-III (Group-C) post from the date when Sasmita Priyadarshini Rout has been extended.

ii. To grant all consequential service and financial benefits to the applicant.

iii. To grant any relief/reliefs as deemed fit and proper.”

4. The case of the petitioner, briefly stated, is that he was appointed in a Group-D post under the Rehabilitation Assistance Scheme, 1990. It is claimed that though he was placed at serial no. 19 of the eligibility list prepared on the basis of the date of the death of the deceased government servant, he was engaged against a Group-D post though he was eligible to be appointed against a Group-C post. Accordingly, the petitioner approached the erstwhile

Odisha Administrative Tribunal in O.A. No. 1076 of 2010. The learned Tribunal vide order dated 03.07.2013 accepted the contentions of the petitioner and directed the authorities to draw a fresh eligibility list for the period prior to 09.06.2009 on the basis of the date of application and reconsider the case of the application (petitioner) to be adjusted against a Class-III (Group-C) post, if his serial number comes within the vacancy position for the relevant period. It was however made clear that the persons, who has already been appointed rightly or wrongly against the Class-III (Group-C) post under the Rehabilitation Assistance Scheme shall not be affected by the said order. Pursuant to such order, the District Education Officer, opposite party no.3 issued an office order on 16.01.2016 redrawing the eligibility list and by directing that the petitioner shall be adjusted in a vacant Class-III post, i.e. Junior Clerk at Prachi Academy, Adaspur under his administrative control in the appropriate scale of pay, but held that his seniority will be counted from the date of joining in Class-III post.

5. According to learned counsel for the petitioner, for the fault of the authorities in drawing up the eligibility list correctly, the petitioner cannot be made to suffer as he has lost his seniority because of the same.

6. In course of hearing, this Court finds that ventilating his grievance, the petitioner has submitted a representation on 21.12.2017 before the opposite party no.3, which is said to be still pending.

7. It is fairly submitted by Mr. R.N.Acharya, learned Standing Counsel for School and Mass Education Department that the Government is the appropriate authority to take a decision on the

grievance of the petitioner and that the opposite party no.3 being the District Education Officer, Cuttack has to forward the representation of the petitioner to the Government.

8. Considering the submissions as above, this Court deems it proper to dispose of the writ petition by directing the opposite party no.3 to forward the representation dated 21.12.2017 submitted by the petitioner to the Government in School and Mass Education Department, if not already forwarded, within a period of fifteen days from the date of receipt of a copy of this order or on production of certified copy thereof by the petitioner. On the representation being so forwarded, the opposite party no.1 shall consider and dispose of the same in accordance with law as also keeping in view the order dated 03.07.2013 passed by the erstwhile Administrative Tribunal in O.A No. 1076 of 2010 within a period of two months from the date of receipt of such representation. The decision taken by the opposite party no.1 shall be communicated to the petitioner within a period of 15 days.

9. The writ petition is disposed of accordingly.

(Sashikanta Mishra)
Judge

A.K. Rana