

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.1061 of 2018

Manjulata Das

..... Petitioner
Mr.S.B.Jena, Advocate

-versus-

State of Odisha & others

..... Opposite Parties
Mr. R.C.Patnaik, Standing Counsel,
S & ME.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
15.03.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Standing Counsel for School & Mass Education department
3. Perused the records.
4. Fact of the present case are like this. The Petitioner, who was appointed as Resource Teacher in Gopabandhu U.P.School, Choudwar in the Cuttack district has filed the present writ application for absorption in his service against the Class-III Non-teaching post which is lying vacant under Cuttack district. Further she has prayed for payment of arrear salary from May, 2005 to March, 2009 within a stipulated period of time.
5. Pursuant to an advertisement issued by Opposite Party No.2 in the year 1991 to fill up the post of Resource Teacher in Elementary Schools under a Centrally Sponsored Scheme for disabled children, the Petitioner applied for the post of Resource Teacher and on being selected she was appointed vide order dated 29.08.1992 as a Resource

Teacher in SN UP School, Rajkanika. Thereafter the Petitioner has joined in service as such on 25.09.1992 and after successfully working for 17 years to the best satisfaction of the authorities, the Petitioner was informed by the authorities that the centrally sponsored scheme (Integrated Education for Disabled Children Scheme, in short IEDC scheme) shall continue till 31.03.2009 and accordingly the engagement of the Petitioner as Resource Teacher has also come to an end. Thereafter challenging the said decision of the authority, several original applications were filed. The Tribunal disposed of all the original applications directing the applicants to file representation before the competent authority which shall be considered by the authority in accordance with law within a stipulated time.

6. While the matter stood thus, the Government took a decision to reengage 63 Resource Teachers and 12 Attendants vide order dated 21.05.2010. As a result of such decision, the Government took back some disengaged employees. Further 34 Resource Teachers post were left out and the present Petitioner falls in that category of left out Resource Teacher.

7. Learned counsel for the Petitioner submits that the Petitioner after working for almost 20 years have been thrown out from the service. Moreover he submits that the Petitioner has not been paid salary from May, 2005 to March, 2009. Drawing the attention of this Court to the letter of the Director, Elementary Education dated 31.01.2015 learned counsel for the Petitioners submits that clarification was sought for from the Government and further specific instruction was sought for, for absorption of such left out Resource Teachers against vacant non-teaching post according to their qualification.

8. Learned counsel for the Petitioner further submits that sanctioned non-teaching posts were lying vacant under B.E.O., Cuttack. Further referring to order dated 13.11.2015 under Annexure-11 learned

counsel for the Petitioner submits that one Rama Chandra Das, Ex-Resource Teacher who has been paid his arrear salary by order dated 13.11.2015 under Annexure-11 has also been reengaged in service by the Government. In such view of the matter, learned counsel for the Petitioner submits that the Petitioner is entitled for regularization of service against any vacant post. Further, she is entitled to get the arrear salary.

9. Learned Standing Counsel for School & Mass Education Department on the other hand submits that the project under which the Petitioner and similarly situated persons were initially appointed was centrally sponsored project and the said project has been terminated by the Central Government. He further submits that the representation which has been filed by the Petitioner for absorption against any non-teaching vacant post the same shall be considered by the authority within a stipulated period of time in the event this Court directs to do so.

10. Considering the aforesaid facts and circumstances of the case, the present writ application is disposed of with a direction to the Petitioner to approach the Director, Teacher Education of SCERT, Odisha, Opposite Party No.2 by filing a comprehensive representation along with supporting documents within a period of four weeks along with certified copy of this order. In the event such a representation is filed, the same shall be considered by Opposite Party No.2 keeping in view the fact that similarly situated persons were given engagement by the Government and in the event it is found that the similarly situated persons were given engagement and vacancy in the non-teaching posts are available then the case of the Petitioner shall be considered and subject to her eligibility and suitability she will be absorbed against any non-teaching vacant post. Any decision taken by the authority shall be communicated to the Petitioner within a period of two weeks.

11. It is further submitted by the learned counsel for the Petitioner that the Petitioner has not received the arrear salary which she is legally entitled to get. The authorities are further directed to examine that aspect in the matter and in the event it is found that she is entitled to get any arrear salary, the same shall be calculated and paid to the petitioner within a period of six weeks from the date of communication of the same.

12. Issue urgent certified copy of the order as per Rules.

RKS

*(A.K. Mohapatra)
Judge*

