

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.2001 of 2018

Rajkishore Das & Anr.

....

Petitioners

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

20.09.2022

Order No

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. L.K. Mohanty, learned counsel for the Petitioners and Mr. N. Prusty, learned Standing Counsel appearing for the Opp. Parties.

3. The Petitioners have filed the present writ Petition with the following prayer:-

“(a) The Original Application be allowed;

(b) The order of rejection dt.2.1.2018 under Annexure-9 so far it relates to the applicants be quashed;

(c) The Respondents be directed to regularize the services of the Applicants as Level-V Primary School teacher taking their placement in the list of trained Ganasikhyak under Annexure-7;

(d) Such other order/orders be passed granting complete relief to the applicant.”

4. It is submitted that even though the Petitioner fulfils all the eligibility criteria for her regularization as an Assistant Teacher, he was declared ineligible only on the ground that he acquired the +2 qualification without obtaining prior permission from the appropriate Authority as reflected in Annexure-9.

5. Mr. Mohanty, learned counsel for the Petitioner submitted that the Petitioner obtained necessary permission to appear +2 examination from the B.R.C.C., Cuttack Sadar vide letter dtd.20.01.2010 and 02.02.2010 under Annexure-2 & 3.

6. Mr. Mohanty also brought to the notice of this Court that the clarification issued by the Govt. in the Department of School & Mass Education dtd.23.09.2017 under Annexure-8. In the said clarification it has been indicated as follows:-

“It is considered to allow the permission issued by others like C.I. of Schools, D.I. of Schools, BDOs, S.I. of Schools, BRCCs, CRCCs and HMs during 16.02.2008 to 07.04.2010. After 07.04.2010, permission from the competent authority only be considered.”

7. Mr. Mohanty accordingly submitted that in view of the clarification issued under annexure-8 and the Petitioner having obtained qualification during the period from 16.02.2008 to 07.04.2010, she should not have been declared as ineligible on the ground that she has acquired +2 qualification without proper permission from the appropriate Authority.

8. Even though notice of the writ Petition has been issued since 26.07.2018, but no counter affidavit has been filed till date. In view of the admitted position as indicated in the clarification issued under annexure-8, this Court finds that the ground on which the Petitioner has been declared ineligible for her regularization as an Assistant Teacher Level-V (Ex-cadre) is not justified and legal. Accordingly, while quashing the same, this Court directs the O.P. No. 3 to take steps for regularizing the services of the Petitioner as an Assistant Teacher Level-V (Ex-cadre). The entire exercise shall

be completed within a period of three (3) months from the date of receipt of this order.

9. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha

