

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.1614 of 2016

Bandita Mohanty

....

Petitioner

Mr.Abhiram Swain, 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.

03.

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. The present writ application has been filed with the following prayer:

“The Hon’ble Tribunal may graciously be pleased to direct the respondents to extend the Trained Graduate Scale of pay in favour of the applicant with effect from 28.02.2004 till date which he was availed previously with arrear thereof.”

5. It is submitted by the learned counsel for the Petitioner that the Petitioner was initially appointed in the year 1981 on being duly selected through a valid selection process and were initially appointed as Assistant Teacher on 02.04.1981 at Baramunda Municipal Integrated M.E.School, Bhubaneswar. Thereafter the Petitioner acquired qualification and was subsequently promoted to the post of I.A.(C.T.)

and thereafter Trained Graduate Post under the Bhubaneswar Municipality, later on Corporation which is then under the Housing & Urban Development Department. Initially the appointment was made on ad hoc basis. Subsequently her service was regularised by the Municipal authority with effect from 01.11.1996 and as such was promoted to the I.A.(C.T.) scale of pay and thereafter Trained Graduate scale of pay and was continuing in the said School. He further submits that while continuing as such, the Petitioner and similarly situated teachers were extended T.G.scale of pay with effect from 01.11.1996.

5. While the matter stood thus, the Government of Odisha in School & Mass Education Department by Notification dated 28.02.2004 took over all the Schools run by the Urban local bodies. Accordingly all teaching and non-teaching staff have also been taken over by the School & Mass Education Department. Promotion of T.I. & T.M. Teachers to T.G.Scale of pay was under consideration and due to non-availability of TGT post they were not promoted to the post of T.G.T. post. Further, learned counsel for the Petitioner referring to Letter No.12538 dated 13.07.2021 submits that the School & Mass Education department, Government of Odisha has extended the similar benefit to three other similarly situated teachers working under D.E.O. Khurda. He further submits that persons whose cases have been considered by the Government, are junior to the present Petitioner. Learned counsel for the Petitioner further relies upon the judgment of the Orissa Administrative Tribunal in the matter of *Artatan Bag-v.- State of Orissa and others in O.A.No.1215 of 1993* decided on 18.05.1995 regarding grant of pay scale of trained Graduate post. In the said judgment of the Tribunal it has been held that if a person is appointed against T.G.post he will get salary attached to the said post.

6. Learned Standing Counsel for School & Mass Education

department on the other hand relying on the counter filed by the department submits that it is, in fact vide Resolution No.4942 dated 28.02.2004, 72 left out Primary Schools, 65 Lower Secondary (ME) Schools and 82 Secondary Schools of Urban Local Bodies in the State along with teaching and non-teaching staff were transferred under the administrative control of School & Mass Education department and the teaching and non-teaching staff were declared as Government employees with effect from 28.02.2004. Further regarding Clause-12 of the said Notification, learned standing Counsel for the School & Mass Education department submits that any dispute in the matter afterwards will be decided by School & Mass Education Department as per their norms. Learned Standing Counsel further submits that he has not been instructed regarding extension of benefit claimed by the Petitioner to any person junior to the Petitioner. He further submits that the case of the Petitioner shall be duly considered and in the event it is found that she possessed the requisite qualification and eligible to hold the post of TGT, she will be paid the TGT scale of pay by the department.

7. Considering the aforesaid submissions and considering the fact that the petitioner has been working in the TGT post and that benefits as claimed by the Petitioner has been extended to the similarly placed persons namely, Sugyani Kumari Devi, Namita Pattanaik and others, the Petitioner is directed to file a fresh representation before the Director, Secondary Education, Opposite Party No.6 highlighting the grievance of the Petitioner along with all supporting documents and the judgment relied by the Petitioner within a period of two weeks from today along with certified copy of this order. In the event such representation is filed, the same shall be considered keeping in view the eligibility and suitability of the Petitioner and the fact that the persons junior to the Petitioner have been regularised and challenged by the

Petitioner, the authority shall do well to extend the benefit of T.G.T. scale of pay to the Petitioner in the event she is entitled to as per law within a period of three months from the date of filing of representation before opposite Party No.6.

8. With the aforesaid observation the writ application stands disposed of.

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

RKS

(*A.K. Mohapatra*)
Judge

