

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C. (OAC) No.683 of 2016

Kishore Chandra Behera

....

Petitioner

None

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. R.N. Acharaya, Standing
Counsel for S & ME

CORAM:

JUSTICE M.S. RAMAN

ORDER

18.11.2022

Order No.

01. 1. None appeared for the Petitioner at the time of call.
2. The Petitioner, Assistant Teacher engaged for 89 days (ad-hoc basis) at M.E. School, Bagmund of Khaprakhol in 1982, claiming to have acquired B.Ed. qualification subsequently. It is claimed by the Petitioner that the Inspector of School, Bolangir Circle, Bolangir *vide* order dated 10th January, 1996 promoted to the Petitioner along with certain other in-service teacher(s) working in Lower Secondary Education Service Cadre (LSE) to the post in the cadre Junior Secondary Education Service (Jr. SES) against the in-service quota in pursuance of Letter dated 29th December, 1995 of the Director of Secondary Education, Odisha. In the present petition, the relief prayed for by the Petitioner is that though similarly placed persons having B.Ed. qualification have been promoted to the rank of OES-II temporarily on *ad-hoc* basis but the case of the petitioner was ignored.
3. *Vide* order dated 21st March, 2016, the learned Odisha Administrative Tribunal issued notice instructing the Opposite

Parties to file counter and the Petitioner was at liberty to file rejoinder thereto.

4. Mr. R.N. Acharaya, learned Standing Counsel for School and Mass Education stated that counter dated 25th April, 2017 has been filed and referred to the following paragraphs of the said counter:

“10. That, the applicant has further averred in the aforesaid O.A. that the respondent No.1 has promoted to some of the similarly situated persons of him to the rank of OES-II(SB) on ad-hoc basis vide Notification No.24930/SME dated 31st October, 2013 but his case has been ignored, which is illegal, arbitrary and discriminatory in nature. True copy of the Notification dated 31st October, 2013 issued by the Respondent No.1 has already been annexed as per annexure-9 of the O.A. In this context it is submitted that the Respondent No.1 has promoted only Sr. SES Headmaster/Headmistress only to the grade of OES-II (S.B) but not to any LSEs or Jr. SES Teachers. Thus the allegation made by the application is baseless and not sustainable in the eye of law.

11. That, it is humbly submitted that Section – 4 of the Orissa Education Service (Group-B) (Recruitment to the School Branch) Rules, 1971 provides-

Method of Recruitment – Recruitment to the aforesaid service shall be made by following methods, namely:

(c) Promotion from amongst the members of the Orissa Senior Subordinate Education Service (School Branch).

(d) Direct recruitment by competitive examination.

Rule-15 of the aforesaid Rule Provides:-

Condition of eligibility for promotion – No person shall be considered for promotion for the service unless he –

(b) Has rendered fifteen years of service in the Orissa Subordinate Education Service including two complete years in the Senior grade on the first day of

January of the year in which the selection for promotion is made.

It is submitted that in the instant case the applicant has challenged that the respondent No.1 have promoted B.Ed. qualified trained LSEs Teachers to the grade of OES-II. Accordingly he is also eligible for promotion for the said post. But on a bare perusal Rule-15 of the aforesaid rule, the applicant does not provide the eligibility conditions as he has never rendered his service at least for two years in the senior grade on the first day of January, 2013. As the applicant has never promoted to the post of Senior Grade then the question of rendering of service at least for two years does not arise at all."

5. Since none appeared for the Petitioner, it is treated that the Petitioner is not interested to pursue the matter.

6. In view of categorical stance of the opposite parties, and not disputed or denied by the petitioner, that none in the cadre of LSEs or Jr. SES Teachers is given promotion to the cadre of OES-II, the writ petition stands dismissed.

(M.S. Raman)
Judge

Laxmikant