

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C. (OA) No.1391 of 2015

Nilima Mishra

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Petitioner

Mr. Nihal Rath, Proxy Counsel on
behalf of Mr. C.S. Panda, Advocate

-versus-

***Commissioner-cum-Secretary to
Government of Odisha, School
and Mass Education Deptt. &
Another***

....

Opposite Parties

Mr. R.C. Pattnaik, Standing Counsel
for School and Mass Education

**CORAM:
JUSTICE M.S. RAMAN**

ORDER

21.06.2022

Order No.

01.

1. This matter is taken up through virtual/physical mode.
2. The Original Application No. 1391 of 2015 was filed before the State Administrative Tribunal, Bhubaneswar. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OA) No. 1391 of 2015.
3. Heard Mr. Nihal Rath, Proxy Counsel on behalf of Mr. C.S. Panda, counsel for the Petitioner and Mr. R.C. Pattnaik, Standing Counsel for School and Mass Education
4. The Petitioner, appointed as Assistant Teacher entered into Government Service on 3rd December, 1996. The uncontroverted fact remains that she went on leave with due permission for different periods i.e., 19.07.2013 to 16.08.2013, 16.07.2014 to 31.08.2014 and 04.09.2014 to 22.09.2014. The Petitioner is aggrieved by non-release of leave salaries as well as annual increment in the year 2012,

2013 and 2014. The Petitioner approached the concerned authority namely District Education Officer, Subarnapur (Opposite Party No.4) which is at Annexure-8. The Petitioner alleges that the said representation is still pending before the authorities. A counter affidavit has come to be filed on behalf of Block Education Officer, Ulunda (Opposite Party No.5).

5. Mr. R.C. Pattnaik, Standing Counsel for School and Mass Education referred to counter reply to the averments of the Petitioner which are at Paragraph 5 and 9. The texts of the said paragraphs are extracted here in below for convenience:-

“5. That in the connection it is homely submitted that the matter is that the applicant was transferred from Mahulpali Primar School to Bishipada U.P. School by the District Level Transfer Committee and relieved of her duties on 16.07.2013. The relieve order is submitted as Annexure A/2. The applicant did not received the relief order as reported by the I/C Headmaster. The report of the I/C Headmaster is submitted as Annexure A/3. Without joining in her new place of posting she remained in leave and challenged the order of the transfer which is clearly evident from her representation dated 20.07.2013, submitted herewith Annexure A/4 and the Order of the Hon'ble Tribunal is submitted as Annexure A/5. Keeping in view of the prayer made by the applicant in OA No. 1530/2013 the District Inspector of Schools, Birmaharajpur requested the Block Development Officer to allow continuance of the applicant till finalization of her dues Vide his office letter No.975 dated 13.08.2013. The Order of the District Inspector of Schools, Birmaharajpur is submitted as Annexure A/6. In such state of affairs handed over school charges by the other teacher to the applicant might have been delayed.

But the applicant was not able to manage the school and failed to maintain cordial relation with the School Management Committee. Complaint received from the parents & SMC that the school students, were being torched by the applicant, M.D.M not served to the students properly. The parents did not sent their children to the school from 15.1.2014 to 2.2.2014 in protest of the activities of the

applicant and demanding immediate transfer of the applicant from the school. The allegation against the applicant is submitted as Annexure-A/7.

Compliant is also filed against the applicant before the Odisha State Commission for Protection of Child Right and National Human Right Commission. The copies of complaint filed are submitted as Annexure-A/8 & A/9.

In view of the above immediate displacement of the applicant from the school was essential to bring academic situation normal. The matter was brought to the notice of the District Education Officer, Sonapur and Collector-cum-District Magistrate, Subarnapur and as per their instruction the applicant was directed to work in Ullunda Govt. U.P. School in the same Headquarters, without affecting the service condition of the applicant. Disciplinary Proceeding was also initiated. The file order of the Collector, Subarnapur is submitted as Annexure-A/10.

9. That the applicant is try to mislead the Hon'ble Tribunal by giving false averment. She is frequently try to put the respondents in embarrassing situation by taking shelter of the Court. As per Official records the Order of Suspension was challenged by the applicant in the Hon'ble OAT in OA No. 2936(C)/2012. The order of the Tribunal is submitted as Annexure-A/14. When her application was not entertained in the Hon'ble OAT, she filed case in Hon'ble Odisha High Court in W.P. (C) No. 18658/2012, the copy of the petition is submitted as Annexure-A/15. The W.P.(C) 18658/2012 is still subjudice in the Hon'ble High Court."

6. Mr. Nihal Rath, Proxy Counsel on behalf of Mr. C.S. Panda, counsel for the Petitioner submitted that the allegations at Paragraph 5 are vague and not established. However, on earlier occasion the Petitioner had approached this Court challenging the order of learned Tribunal in the context of suspension in W.P. (C) 18658/2012. Though the said fact is reflected at Paragraph 9 of the counter affidavit which is pressed into service by Mr. R.C. Pattnaik, Standing Counsel for School and Mass Education, on verification from the web portal of this Court, it is seen that the said writ petition has

been dismissed as infructuous vide order dated 21st September, 2021.

7. Having heard both sides without entering into the merit of the case interest of justice would be best served, if the Petitioner approaches the Opposite Party No.4/District Education Officer by producing certified copy of this order along with a comprehensive representation within a period of two weeks hence..

8. Taking note of the submission of, the counsel for the Petitioner that the authorities have already disbursed duty pay and ACP, it is directed that the Opposite Party No.4 on receipt of aforesaid documents shall take decision within a period of three months with regard to release of leave salaries as well as the annual increment for the years 2012, 2013 and 2014. Needless to say that the Opposite Party No.4 shall afford an opportunity of hearing before passing a reasoned order on consideration of the representation and such order be communicated to the Petitioner.

Issue urgent certified copy as per rules.

(M.S. Raman)
Judge

Laxmikant