

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No.146 of 2014

An application under Section 19 of the State Administrative Tribunal's Act, 1985.

.....

Rajalaxmi Mishra

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner : M/s. Mr. R.K.Bisoi &
B.K.Mohanty.

For Opp. Parties : M/s. M.K.Balabantaray,
Standing Counsel.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

संघनिक नयने

Date of Hearing:06.05.2022 and Date of Order:12.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. R.K.Bisoi, learned counsel for the Petitioner and Mr. Prusty, learned counsel for the State- Opposite Parties.
3. The Petitioner has filed the present Writ Petition with the following prayer:-

“In view of the facts and circumstances as narrated in Para-6 above, it is ardently prayed that your lordships may

kindly be pleased to direct the Respondent Nos.2 and 3 to count the seniority of the applicant w.e.f. 1.2.1994 in level-V of Service and give all service and promotional benefits from the date her junior Respondent No.4 got such benefits within a time stipulation as fixed by this Hon'ble Tribunal.

And pass any other order / orders as deemed fit and proper in the interest of justice, equity and good conscience.

And for which act of your kindness the applicant shall as on duty bound ever pray".

4. It is submitted by the learned counsel for the Petitioner that the Petitioner initially approached learned Tribunal in O.A. No.1094 of 2002 with a prayer to count the seniority from 01.02.1994 and to fix up seniority above Opposite Party No.4 and below one Mamata Parida.

5. It is submitted that the learned Tribunal vide order dated 10.11.2006 disposed of the said original application with a direction on the Opposite Party No.1 to call for the necessary papers and to examine the same and pass appropriate order within a period of eight weeks from the date of receipt of this order.

6. It is submitted that when the order passed by learned Tribunal under Annexure-6 was not complied, the Petitioner filed C.P. No.297 of 2007. Learned Tribunal vide order dated 20.02.2009 disposed of the said Contempt Petition with a direction on the Opposite Party No.2 to do the needful in terms of the order passed by the Opposite Party No.1 on 07.03.2008 under Annexure-8. But it is submitted by Mr. Bisoi, learned counsel for the Petitioner that even though vide order dated 7.3.2008, Opposite Party

No.2 was directed to verify the entire list of Primary School Teacher who were regularized during 1994 and to rectify the discrepancy, but while directing so, Opposite Party No.1 held that the claim of the Petitioner deserves no merit for consideration and is hereby rejected.

9. It is accordingly submitted that while on the one hand, Opposite Party No.2 was directed vide order dated 7.3.2008 under Annexure-8 to verify the entire list of Primary School Teacher, who were regularized during 1994 and to rectify the discrepancy, but at the same time the observation that the claim of the Petitioner deserves no merit is causing prejudice to the Petitioner.

10. It is also submitted that in view of such observation made by the Opposite Party No.1 in its order under Annexure-8, the Opposite Party No.2 though assured the learned Tribunal to rectify the gradation list within a period of three months, but the same is yet to be undertaken. Even though notice of the Writ Petition was issued on 28.01.2014, but no counter affidavit has been filed by the Opposite Parties. However, in absence of such counter, Mr. Prusty, learned counsel appearing for the Opposite Party submitted that since the Opposite Party No.2 has been permitted to do the needful, the said Opposite Party is free enough to consider the grievance of the Petitioner in terms of the order dated 07.03.2008.

11. Heard learned counsel for the Parties.

12. In view of the stand taken by the respective counsels, this Court deems it fit and proper to dispose of the Writ Petition with a direction on the Opposite Party No.2 to consider the claim of the Petitioner as directed by the

Opposite Party No.1 in its order dated 07.03.2008 under Annexure-8. However, it is observed that while taking such a decision, the Opposite Party No.2 shall not be guided by the observation made by the said Opposite Party No.1 that the claim of the Petitioner deserves no merit. The Opposite Party No.2 is directed to take an independent decision of the matter as directed vide order dated 7.3.2008 under Annexure-8.

13. Since the Opposite Party No.2 as directed vide order dated 07.03.2008 is to verify the entire list of Primary School Teacher who were regularized during 1994 and to rectify the discrepancy, this Court directs the said Opposite Party No.2 to take a final decision in terms of the said order within a period of three months from the date of receipt of this order.

14. With the aforesaid observations and directions, the WPC(OA) stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 12th of May, 2022/Subrat