

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.33366 of 2021

Baikunthanath Pathy

....

Petitioner

Mr. Laxmikanta Mohanty, Adv.

-versus-

State of Odisha and Ors.

....

Opposite Parties

Mr. Biswajit Mohanty, SC
(for S & ME Deptt.)

CORAM:

MR. JUSTICE S.K. PANIGRAHI

ORDER

29.04.2022

Order No.

02.

1. This matter is taken up through hybrid arrangement.
2. Heard.
3. In this writ petition, the petitioner seeks a direction from this Court to the opposite parties to grant him retrospective promotion to Junior SES cadre against the year wise vacancy of 1997.
4. Learned counsel for the petitioner submits that the petitioner was appointed as a Sikshya Karmee in the year 1992 and his services were regularized against L.S.E.S. post with effect from 29.06.1994 vide order dated 01.07.1994 passed by the opposite party No.2-Director, Secondary Education, Odisha, Bhubaneswar. As per Rules-10-A and 10-B of the Orissa Subordinate Education Service (General Branch) Rules, 1972 (hereinafter referred to as “the Rules” for brevity), the LSES teachers in old Government High School were eligible for promotion to Junior SES cadre on completion of three years of service having B.Ed. qualification. Therefore, the case of the petitioner was to be considered for promotion to Junior SES cadre against the year wise vacancy of 1997. Due to non-functioning of D.P.C., the promotion of the petitioner was delayed. However, the petitioner was promoted to

the post of Junior SES cadre vide order dated 06.06.2006 passed by the opposite party No.2-Director, Secondary Education, Odisha, Bhubaneswar. Accordingly, the Inspector of Schools, Ganjam issued consequential order dated 13.06.2006 and posted the petitioner as Assistant Teacher of Peoples High School, Buguda. Learned counsel for the petitioner further submits that similarly placed teachers had approached the Orissa Administrative Tribunal, Cuttack in the year 1993 for grant of retrospective promotion against the eligibility of year wife vacancy. The claim of the petitioners therein was allowed by the Tribunal relying upon the Rules-10(A) and 10(B) of the Rules. But the case of the petitioner was not considered by the authority despite being an eminently suitable case for consideration. Being aggrieved by such non-consideration, the petitioner had approached the opposite party No.1- Secretary, School and Mass Education Department, Odisha, Bhubaneswar by way of representation dated 18.08.2021. However, since the said representation does not bear any departmental stamp or any proof of postal dispatch, if the petitioner has approached the authority or not remains under clouds.

5. In such view of the matter, the opposite party No.1- Secretary, School and Mass Education Department, Odisha, Bhubaneswar is directed to verify whether any representation has really been presented by the petitioner before him/her and, if presented, dispose of the same by passing a reasoned order within a period of three months from the date of production/presentation of a certified copy of this order along with a copy of this writ petition. It is also directed that if the petitioner has not approached the authority by way of any representation, he is at

liberty to file a fresh representation within a period of three weeks from today and the same shall be disposed of by the opposite party No.1- Secretary, School and Mass Education Department, Odisha, Bhubaneswar within a period of three months from the date of production/presentation of the fresh representation along with a certified copy of this order and a copy of this writ petition.

6. Accordingly, this writ petition stands disposed of.

7. Urgent certified copy of this order be granted on proper application.

BJ



(S.K. Panigrahi)
Judge