

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.2457 of 2016

Santosh Kumar Prusty

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

20.02.2023

Order No

02. I.A. No. 948 of 2022

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. This is an application for recalling of order dtd.17.08.2022.
3. Considering the grounds taken in I.A., the order dtd.17.08.2022 is hereby recalled.
4. I.A. is disposed of.

**(Biraja Prasanna Satapathy)
Judge**

03. W.P.(C)(OAC) No.2457 of 2016

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard S.P. Das, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned Addl. Govt. Advocate appearing for the Opp. Parties.
3. The present writ Petition has been filed with the following prayer:-

“(i) Quash the order vide Annexure-7 as non est in the eye of law;

(ii) Direct the Respondents to regularize the service of the applicants as Jr. Lecturer from the initial date of engagement in the applicants Higher Secondary Schools and release all consequential and financial service benefits within a stipulated time of course reasonable as directed by this Hon'ble Tribunal;

(iii) Direct the Respondents to release equal pay for equal work pending regularization of service of the applicant;

(iv) And may pass any other order/orders as deemed just and proper;

And for this act of kindness, the applicant shall as in duty bound ever pray.”

4. It is submitted that pursuant to the notice issued by the Project Administrator, ITDA, Koraput under Annexure-1 the Petitioner faced the walk-in-interview and he was appointed as Junior lecturer in Botany (PGT) on contractual basis vide order dtd.30.11.2011 under Annexure-2. It is submitted that pursuant to the said order Petitioner joined as a Junior lecturer (PGT-BOTANY) on 01.12.2011 under Annexure-3.

5. Mr. Das, learned counsel for the Petitioner submitted that while continuing as such Govt. in the ST & SC Development Department, when issued a communication on 16.06.2016 with regard to creation of regular post for upgradation in the Higher Secondary School of ST & SC Development Department, the Petitioner apprehending that he will be thrown out after creation of such regular post, filed the present writ Petition with the aforesaid prayer.

6. This Court while issuing notice of the matter passed an interim order by restraining the Opp. Parties from taking any coercive action against the Petitioner. It is submitted that interim of such

order passed by this Court on 26.08.2016, the Petitioner is continuing as a contractual Junior Lecturer till date. This Court after going through the materials available on record finds that the apprehension of the Petitioner is not well founded and there is no document showing that on creation of such regular post the Petitioner will be promoted.

7. Be that as it may, since the Petitioner is continuing as a contractual junior lecturer in Botany (PGT) since 01.12.2011 pursuant to the order issued under Annexure-2 on 30.11.2011, his claim for absorption in the said post be considered in terms of the resolution issued by the G.A. Department on 17.09.2013 and the decision of this Court rendered in the case of **Patitapaban Duttadas** in W.P.(C) No.19951 of 2020 disposed of on 09.09.2021. Accordingly, this Court while disposing the writ Petition permits the Petitioner to make an application for his absorption in the said post before O.P. No. 3 within a period of three (3) weeks from today.

8. It is observed that if any such application is filed within the aforesaid period, O.P. No. 3 shall take a lawful decision on the same and while taking such a decision the resolution issued by the G.A. Department on 17.09.2013 and the decision of this Court rendered in the case of **Patitapaban Duttadas** shall be taken into consideration. It is further observed that till a decision is taken on the claim of the Petitioner, the interim order passed on 26.08.2016 will continue.

9. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha