

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 1197 of 2014

Muralidhar Behera

....

Petitioner

None

-versus-

State of Odisha & others

....

Opp. Parties

*Mr. R.N. Acharya, Standing Counsel
(School & Mass Education Deptt.) for
O.Ps. 1 to 4*

Mr. L. Samantaray, AGA for O.P.5

**CORAM:
JUSTICE M.S. SAHOO**

**ORDER
20.12.2022**

Hybrid Mode

Order No.

02.

1. None appears for the petitioner when the matter is called. When the matter was last taken up on 26.10.2022, after considering the pleadings of the parties and submissions of the learned counsel for the petitioner as well as opposite parties, the following order was passed granting another opportunity to the petitioner:-

“1. This matter is taken up through hybrid mode.

2. The writ petition has been registered before this Court on 16.08.2021 after the Original Application was transferred from the learned Odisha Administrative Tribunal, Principal Bench, Bhubaneswar upon abolition.

3. On perusal of the available order sheets of the learned Tribunal, it is indicated that by order dated 24.09.2014, learned Tribunal observed “orders passed vide O.A. – 1194 of 2014”. On subsequent dates on 16.10.2015 and 30.10.2017, the learned Tribunal has referred to the order passed vide OA-141/2003. Since reference of those O.As. are not available for reference, this Court is not in

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a position know as to what exactly transpires in those orders.

4. Counter filed by the Respondent No.4 before the learned Tribunal, Block Education Officer, Daspalla dated 28.01.2015 is available on record.

5. The O.A. was filed by the applicant in the year 2014, when he was aged about 68 years and worked as Headpandit, Primary School, At- Jagdev Patna, P.O.- Satapatna, Dist- Nayagarh, seeking a direction to pay the differential arrear dues after re-fixation of his scale of pay notionally w.e.f. 30.08.1972 as per ORSP Rules, 1961 and notionally w.e.f. 01.01.1996 as per ORSP Rules, 1998.

6. Learned Standing Counsel for the School and Mass Education Department refers to para-8 of the counter to contend that as prayed in the O.A., the petitioner has referred to a cause of grievance of the year 1974 and 1989 and after he retired in 2004 on attaining age of superannuation, he approached the learned Tribunal 10 years thereafter.

7. Learned Standing Counsel refers to para-7, 8 and 9 of the counter which are reproduced herein:-

"7. That it is humbly submitted the applicant is non-Govt. Primary School Teacher prior to 05.09.1989 and declared as Govt. School teacher vide Govt. Resolution 26.4.89 after Fifth Pay Commission recommendation they allowed as per Govt. Primary School teacher w.e.f. 01.01.1974 vide notification date 28.10.1975. The non govt. Primary School teacher have allowed to draw same scale of pay as per with govt. primary school teacher and that has been extended to the applicant w.e.f. 1.1.1974. No injustice has been committed to the applicant after decision of Govt. w.e.f. 5.09.1989 no question and allow benefits w.e.f. 5.9.1989 till the retirement on 30.04.2003.

8. That, it is humbly and respectfully

submitted tat the applicant retired from Govt. service w.e.f. 30.04.2004 has approached the Hon'ble Tribunal after 11 years of retirement of Govt. service approached this Hon'ble tribunal after a long lapses of time which is not permissible under the provision of law of limitation.

9. The applicant promoted to the post of Headpandit w.e.f. 30.04.2001 and retired on 30.04.2004 and scale of pay meant for Headpandit was allow to him and nothing has been left to decide again as per the Apex Court in this regard."

8.Learned counsel for the petitioner appears in V.C. and submits that he may be accommodated for two weeks to make his submissions.

9.As prayed for by the learned counsel for the petitioner, to grant another opportunity, list on 17th November, 2022."

To grant another opportunity to the petitioner, the matter was adjourned.

2. Learned Standing Counsel for the School and Mass Education Department reiterates his submissions as noted in the order dated 26.10.2022.

In view of the petitioner not prosecuting the matter, the writ petition is disposed of granting liberty to the petitioner to revive the same within sixty days.

(M.S. Sahoo)
Judge