

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 4280 of 2016

Anita Lenka

.....

Petitioner

Mr. S. Behera, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

*Mr. S. Jena, Standing Counsel for
S&ME Deptt.*

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

17.08.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Behera, learned Counsel for the Petitioner and Mr. S. Jena, learned Standing Counsel for School & Mass Education Department.

3. The Petitioner has filed this Writ Petition seeking to quash the order passed by Opposite Party No.1 under Annexure-9 and to direct the Opposite Parties to extend the scale of pay of Rs.9,300/- with G.P. of Rs.4200/- to the Petitioner, as usual, and also to grant all consequential benefits.

4. Mr. Behera, learned Counsel for the Petitioner contended that the Petitioner was extended with the Scale of Pay of Rs.9,300/- with G.P. of Rs.4200/-, but all of a sudden, vide order under Annexure-9, the same was reduced. Therefore, she prays for quashing of the same and extension of the scale of pay of Rs.9,300/- with G.P. of Rs.4200/-, as she was enjoying earlier.

5. Mr. S. Jena, learned Standing Counsel for School & Mass

Education Department contended the benefit was extended to the Petitioner pursuant to the Resolution dated 05.09.2011 under Annexure-2, but the same was modified vide Resolution dated 27.10.2014. Thereby, the Petitioner is not entitled to get the benefit, which was extended to her, since under mistaken of facts the said benefit was extended to her. The mistake was rectified by correcting her scale of pay, pursuant to the Resolution dated 27.10.2014. In view of such position the reduction of the scale of pay of the Petitioner is well justified.

6. Having heard learned Counsel for the Petitioner and after going through the record, it appears that the Petitioner appeared Master's degree in Sanskrit Examination in the year 2012 as a private candidate and her result was published on 12.08.2015 as per letter dated 07.09.2015 issued by the Deputy Controller of Examination, Utkal University addressed to the Opposite Party No.5. After publication of the result of Master Degree, the Pay of the Petitioner was fixed in the Scale of Pay of Rs.9,300/- with G.P. of Rs.4200/-, which is apparent from the letter dated 26.09.2015 issued by the Opposite Party No.3, but the same was reduced vide letter dated 29.09.2016 to Scale of Pay of Rs.5,200/- with G.P. of Rs.2800/-. The benefit was extended to the Petitioner pursuant to Resolution dated 05.09.2011 under Annexure-2, more particularly clause-8 (i) of the Resolution, wherein it has been indicated that the minimum educational qualification for the post of Classical (Sanskrit) Teachers for all categories of High Schools (Government, Fully Aided, Block Grant and Recognized) shall be "Acharya (except Yotischarya and Ayurvedacharya) or Sahityacharya or M.A. in Sanskrit or it's equivalent Degree from a recognized University/Institution, or a Bachelor's Degree with Sanskrit as one

of the optional subjects from a recognized University with Shikshya Shastri (Sanskrit) from a recognized University or Shastri (Sanskrit) with Shikshya Shastri (Sanskrit) from a recognized University. But the same was clarified vide Resolution dated 27.10.2014 under Annexure-7, wherein common qualification for the post of Classical (Sanskrit) teachers in Govt. Fully Aided, New Grant-in-Aid and recognized High Schools of the State was introduced stating therein that Para 8 (i) of the Resolution dated 05.09.2011 was modified to the extent as indicated therein. It was also stated therein that the Resolution was to come into force with immediate effect. Pursuant to such Resolution, the Scale of Pay of the Petitioner has been fixed at Rs.5200/- with G.P. of Rs.2800/-, as she acquired the M.A. qualification on 12.08.2015, i.e. after the Resolution dated 27.10.2014 was issued. Therefore, the benefit which was granted to the Petitioner pursuant to the Resolution dated 05.09.2011 erroneously was rectified subsequently as the Petitioner had acquired the M.A. qualification on 12.08.2015, taking into consideration the Resolution dated 27.10.2014. On perusal of the Counter Affidavit filed by Opposite Party No.3, at paragraph-10, the reasons for reduction has also been mentioned, which reads as follows:-

“10. That it is humbly submitted that, the Govt. in School & Mass Education Department issued Clarification regarding Scale of pay to be allowed to Class Teachers in High Schools after issue of Resolution No. 23399 dtd. 27.10.2014. The Govt. clarified that,

(a) The untrained Classical Contract Teachers appointed prior to 27.10.2014 and having requisite qualification as per Resolution No. 17542/SME, Dtd. 05.09.2011 shall enjoy remuneration of Rs. 9300/- + Grade Pay, Rs.4200/-, but Classical Contract Teachers engaged after 27.10.2014 and having no training qualification will get remuneration @ 5200/- + Grade Pay 2800/-.

b) The untrained Regular Teachers enjoying salary at par with TG Teachers on the basis of qualification acquired prior to 27.10.2014 as per resolution No. 17542/SME, Dtd. 05.09.2011 shall continue to draw the same.

(c) Recovery shall not be made in case of the untrained Regular Sanskrit Teachers acquiring MA or Acharya qualification prior to 27.10.2014 and they will be eligible to draw the scale of pay at par with TG Teachers as per S& ME Department Resolution No. 17542/SME Dtd. 05.09.2011. But the said category of Teachers acquiring MA in Sanskrit or Acharya qualification after 27.10.2014 shall not be entitled to the benefit at par with TG Teachers as per Resolution No. 17542, Dtd. 05.09.2011. The clarification issued by Govt. regarding scale of pay to be allowed to Classical Teachers in High Schools vide letter No. 19866/SME, Dtd. 29.09.2016.

*The true copy of letter No. 19866/SME, Dtd. 29.09.2016 is annexed herewith as **ANNEXURE- E/3**.*

The applicant has acquired the M.A. in Sanskrit qualification on dtd. 12.08.2015 is not eligible to get the Scale of Pay of Rs. 9300/- GP of Rs. 4200/- . The applicant is entitled & eligible to get pay of Rs. 5200/- with Grade Pay of Rs. 2800/- as per the direction / clarification of the Govt. ”

7. In view of the aforesaid facts and circumstances, this Court does not find any illegality or irregularity in the impugned order so as to warrant interference by this Court. Accordingly, the Writ Petition merits no consideration and the same stands dismissed.

Arun

(DR. B.R. SARANGI)
JUDGE