

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 2244 of 2016

Sukadev Samal

.....

Petitioner

Mr. K. Swain, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

*Mr. R.C. Pattnaik, Standing Counsel
School and Mass Education Deptt.*

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

11.08.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard learned counsel for the parties.
3. The petitioner has filed this writ petition seeking to quash the order dated 04.06.2016 passed by the Director, Secondary Education, Orissa under Annexure-5, by which the pension and other pensionary benefit has been denied on the ground he was a reverted headmaster, and to issue direction to the opposite parties to sanction and release regular pension being a regular headmaster not a reverted headmaster.
4. Mr. K. Swain, learned counsel for the petitioner contended the petitioner has never reverted to any post and, therefore, the order impugned order Annexure-5 cannot sustain in the eye of law.
5. Mr. R.C. Pattnaik, learned Standing Counsel for School and Mass Education Department contended that since the petitioner was a reverted headmaster of Bagdevi Bidyapitha, Daliji, the order impugned has been passed. Therefore, no illegality or irregularity has been committed by the authority.
6. Having heard learned counsel for the parties and after going through the records, this Court finds that similar question had come up for consideration before the tribunal in the case of ***Kshirod***

Chandra Mishra v. State of Odisha and others (O.A. No. 645 of 2014 disposed of on 01.07.2016) and after due adjudication, the tribunal has allowed the benefit in favour of the petitioner therein with a direction to the opposite parties to sanction, disburse and release regular pension, DCRG, commuted value of pension and arrear pension on the basis of last pay drawn by him and that if the pension paper has been returned back, then the petitioner has to again resubmit it before the authority and thereafter all the opposite parties are to take up the follow up action and sanction and disburse the retiral benefits of the applicant within a period of four months. As it appears, the petitioner having not reverted to any post stands on the similar footing than that of *Kshirod Chandra Mishra* mentioned supra.

7. In the above view of the matter, this Court is of the considered view that the order dated 04.06.2016 passed by the Director, Secondary Education, Orissa under Annexure-5, cannot sustain in the eye of law and the same is liable to be quashed and is hereby quashed. The opposite parties are directed to consider the case of the petitioner in the light of the order passed by the tribunal in the case of *Kshirod Chandra Mishra* (supra) and grant the benefits as due and admissible to him within a period of three months from the date of production of certified copy of this order.

8. The writ petition is disposed of accordingly.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Ashok