

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No. 3121 of 2014

Bhagirathi Sahoo

Petitioner

Mr. Mahendra Kumar Sahoo, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. Debasis Mohapatra, SC, S & ME Department

CORAM:

JUSTICE M.S.SAHOO

ORDER

13.4.2022

Order No.

1. This matter is taken up by hybrid mode.
2. The Original Application having been transferred from the learned Orissa Administrative Tribunal, Bhubaneswar upon its abolition, has been registered before this Court on 17.8.2021.
2. On perusal of the available order sheets of the learned Tribunal it is indicated that on 2.1.2015 notices were issued on the question of admission observing that pendency of the case shall not be a bar for the State-respondents to consider the application of the applicants as at Annexure-9. The matter was thereafter listed on 1.12.2017, 29.1.2018 and never taken up/pursued thereafter.
3. In paragraph-3 (as per format of the O.A.), the order against which this application has been made, it has been stated "Nil". At paragraph-7 of the Original Application following prayer has been made :

"(a) Necessary order/orders, be passed directing the Respondents, more particularly, Respondents No.1 and 2 to consider and give promotion to the applicant to the post of Headmaster, vacancies available within the transferred ULB High Schools in compliance of the judgment of this Hon'ble Tribunal and the directions given therein under

Annexure-6 with all promotional benefits at par with the counterpart so as to enable the applicant to hold the post of Headmaster in lieu of non-ULB Teachers.

(b) Or in alternative, any other directions be made so as to give complete relief to the applicants as deemed fit and proper by this Hon'ble Tribunal."

Such prayer does not refer to any rejection or consideration by any authority of the claim of the petitioner nor the reasons the applicant was aggrieved.

4. It is submitted by learned counsel for the petitioner that though the petitioner has not approached the authorities, his case is covered by the judgment of the learned Tribunal enclosed to the O.A./writ petition and marked as Annexure-6 which has been confirmed by order of this Court dated 22.12.2016 in W.P.(C) No.27744 of 2013. It is further submitted that the SLP(C) Diary Nos.22174 of 2017 challenging the judgment passed by the Division Bench has also been dismissed by order dated 13.11.2017.

5. It is submitted by learned counsel for the petitioner that after dismissal of the SLP, there is no reason not to grant benefits to the petitioner though claimed for the first time in the Original Application.

It is contended that the claim is similar to the applicants in the O.A. No. 1449 of 2011, 1501 of 2011 and 575 of 2012 and the order therein has attained finality.

6. Since there has been no determination by any authority regarding the entitlement of the applicants/petitioners in the writ petition, the learned counsel for the petitioner submits that the petitioner seeks leave to withdraw the writ petition to approach the authority by making proper representation.

7. Learned Standing Counsel submits that any representation that would be made by the petitioner regarding their entitlement shall be considered in accordance with law and disposed of by the authority in due time.

8. Having heard learned counsel for the parties, the writ petition is disposed of with the following order :

The petitioner, if so advised, shall make representation before the authority for consideration of his grievance regarding his entitlements of promotion and consequential promotional benefits to the post of Headmaster along with all the relevant documents sought to be relied upon by the petitioner in support of his claim. The authority shall do well to consider the grievance of the petitioner and take decision after referring to all the relevant material as expeditiously as possible, preferably within a period of four months, from the date of communication of certified copy of this order along with all the relevant documents by the petitioner.

The authority shall communicate to the petitioner the decision that would be taken, within two weeks.

9. The petitioner shall have the liberty to take appropriate follow-up action, as available under law, pursuant to the decision that would be rendered by the authority.

However, it is clarified that this Court has not expressed any opinion on the merits of the case, in any manner whatsoever.

(M.S.Sahoo)
Judge