

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC (OA) No.1924 of 2014

Bibhukalyan Khitibhusan Behera

Petitioner

Mr. S.N. Pattnaik, Advocate

-versus-

State of Odisha & Others

Opposite Parties

Mr. R.C. Pattnaik, Standing Counsel for the
School & Mass Education

CORAM:
JUSTICE M.S. RAMAN

ORDER
29.03.2022

WPC(OA) Nos. 1924, 1933,1966, 1967,1968, 1969,1970
& 1971 of 2014

Order No.

- 01.** 1. This matter is taken up by virtual/physical mode.
2. Since all these petitions are filed by the different Petitioners, those are taken up together for hearing and disposal by this common order taking into O.A. No. 1924 of 2014 as lead case.
3. The Original Application No.1924 of 2014 was filed before the State Administrative Tribunal, Bhubaneswar. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OA) No.1924 of 2014.
3. The case of the Petitioner is that he was duly selected person pursuant to the resolution dated 12.03.1996 through a

P.T.O.

district selection committee as a Primary Teacher in a Primary School and has been continuing as such. Opposite Party No. 3 issued order dated 19.8.2014 for fresh selection for the recruitment of Primary School Teachers appointed during the incumbency of Sri K.C. Guru, Ex-Inspector of Schools, Sambalpur Circle, Sambalpur in compliance of order dated 10.03.2000 of learned Tribunal passed in O.A. No 2583 of 1999. The Petitioner contends that if such fresh selection for recruitment continues, the Petitioner would be highly prejudiced. It is further case of the Petitioner that it is standing in the same footing like that of other primary school teachers who are protected by the orders of the Hon'ble Supreme Court vide SLP (C) No. 18777 and 18778 of 2002 (arising out of order of this Court in WP(C) No. 496 of 2002).

4. Taking into consideration the submission of learned counsel for the Petitioner, the learned Tribunal vide order dated 10.08.2018 has passed an elaborate order which is extracted hereunder:-

“Learned counsel for the applicant submitted that 69 Assistant Teachers who are similarly placed as the present applicants approached the Hon'ble High Court in W.P.(C) No. 518 of 2002 challenging the direction of the Tribunal in O.A. No. 2583(C) of 1999 and batch of cases. The decision in that O.A. is that since the averment was made that fraud was practiced in selection of teachers in Sambalpur district during the incumbency of Sri K.C. Guru, C.I. of Schools, the matter has to be enquired into by a High Level Committee and action taken pursuant thereto. The High Power Committee came to the conclusion that *“therefore we are of the view that the*

entire selection is fraud and be cancelled since the Govt. Guidelines framed for the purpose has not been followed.

As per decision of the Hon'ble Tribunal as mentioned above, a conscious decision may be taken at Govt. Level to make fresh selection following procedure as existed then by taking all candidates sponsored there from open market, through Employment Exchanges, NFS candidates working then and SC/ST candidates having untrained qualification sponsored through Employment Exchange who appeared against the vacancies and norms of selection at that point of time restricting to the notified vacancies of 1165 posts as on 30.06.96.

In view of the above, we would request Govt. To take conscious decision at their level and their orders in the matter may be communicated as quickly as possible”.

In the aforesaid writ petition, Hon'ble High Court passed an interim order dated 01.07.2002 staying further action as per order of the Tribunal. This order was challenged by the State respondents before the Hon'ble Apex Court in SLP(C) No. 18777 778/02 and that SLP. Was disposed of by the Hon'ble Apex Court with the following orders:

“Learned counsel appearing on behalf of the appellants has stated that the respondents-writ petitioners had been duly appointed and there was no intention on the part of the appellants to take any action against them as they were not covered either by the proceedings before the Tribunal or by the report of the high level committee, therefore, they have not been served with any termination order or any notice to show cause. According to the learned counsel, the respondents-writ petitioners were merely a front to protect the illegally/irregularly appointed primary school teacher from the State Government's action against them in terms of the Tribunal's direction. We need not go into the correctness of this allegation.

Given the admitted position that the respondents are not sought to be proceeded against on the basis of the report of the high level committee, we dispose of the

appeal by observing that the services of the respondents will not be terminated on the basis of the report of the high level committee. Save to the extent, as stated above, the orders under challenge set aside”.

On the basis of the disposal of the SLP by the Hon'ble Apex Court, the writ application before Hon'ble High Court was also accordingly disposed of.

Learned counsel for the applicant submitted that though they are similarly placed as the applicants in that writ petition, the State Respondents are now proposing action against them. Perusal of the report of the High Level Committee shows that the entire recruitment through which both parties got their appointment was fraudulent.”

By virtue of interim order passed by the learned Tribunal vide order dated 9.9.2014 which was extended from time to time thereafter, the Petitioner is said to have been continuing in service.

Though notices were issued way back in 2014 directing the Opposite parties to file counter, no counter has yet been filed.

5. However, when the matter is taken up today, Mr. S.N. Pattnaik, learned counsel appearing for the Petitioner submits that he has no up-to-date instruction in this matter. Therefore, it is not deemed proper to keep the matter pending any further.

6. Accordingly, the writ petitions stand disposed of with liberty to the Petitioners to seek revival within 90 days from today, in case any cause of action subsists.

By virtue of disposal of the writ petitions, the interim order dated 09.09.2014 and orders passed subsequent thereto stand vacated.

Issue urgent certified copy as per rules.

(M.S. Raman)
Judge

Aks

