

**IN THE HIGH COURT OF ORISSA AT CUTTACK**  
**WPC(OAC) No.3209 of 2015**

***Dr. Shyama Charan Mohanty*** ..... ***Petitioner***

Mr. R.K. Bisoi, Advocate

-versus-

***State of Odisha and Others*** ..... ***Opposite Parties***

Mr. P. Bharadwaj, Additional Standing Counsel

**CORAM:**  
**SHRI JUSTICE B. P. ROUTRAY**

**ORDER**  
**27.9.2022**

**Order No.**

- 04.
1. The matter is taken up through hybrid mode.
  2. Heard Mr. R.K. Bisoi, learned counsel for the Petitioner and Mr. P. Bharadwaj, learned ASC for State.
  3. The Petitioner has prayed to quash the order under Annexure-12 wherein the service benefits granted to him has been withdrawn by the Government in Higher Education Department.
  4. It is submitted by Mr. Bisoi, learned counsel on behalf of the Petitioner that the order withdrawing the service benefits granted to him is illegal as no opportunity of hearing has been granted to him before that and secondly, the concurrence from OPSC for the purpose is not required.
  5. The State – Opposite Parties did not choose to file their reply to the petition till date. However, it is submitted by Mr. Bharadwaj, learned ASC that the benefits granted to the Petitioner and other Lecturers under Annexure-10 suffers from misrepresentation of facts

and also by violating the procedural rules. Therefore this court has no scope to interfere with the same.

6. The Petitioner served as lecturer and in the meantime retired on superannuation on 31<sup>st</sup> December, 2011 as Reader in Political Science from a Government Autonomous college, Phulbani. Earlier he was placed in Lecturer (Sr. Scale) from 12<sup>th</sup> September, 1988 which was later antedated to 1<sup>st</sup> January, 1986 by order dated 6<sup>th</sup> May, 2014 of Government of Odisha in Higher Education Department. Said order of antedating the placement in Lecturer (SS) and Reader was subsequently withdrawn by impugned order dated 31<sup>st</sup> October, 2015 under Annexure-12 on the ground that the order under Annexure-10 is suffering from misrepresentation of facts as well as did not have concurrence of the OPSC in terms of the Rule 12 of the Orissa Education Service (CB) Recruitment Rules, 1990.

7. The main question hinges on the point that, whether antedating of placement as Lecturer (SS) and Reader requires concurrence of OPSC in terms of Rule 12 of 1990 Rules?

8. Rule 12 reads as follows:-

**“12. Consultation with the Commission** – (1) The lists of eligible persons prepared by the Screening Committee for appointment of Lecturers (Senior Scale) under Rule 8 [and Readers under Rule 9] shall be forwarded to the Commission with the following documents.

- (a) Records of all eligible officers in the lists.
- (b) Gradation lists of the eligible officers.
- (c) C.C.Rs. of the officer whose cases have taken into consideration.

(d) Indication about the pending representations against adverse remarks if any –

(e) Indication about representation against Departmental Proceedings, if any.

(2) Sealed cover procedure shall be maintained in case of an officer eligible for promotion but is under suspension.

(3) The Commission shall consider the cases of eligible persons in respective grades as laid down under Sub-rule (1) supra and convey their recommendations to the Government. The Commission may assign reasons for any alteration in the lists prepared by the Committee.

(4) The recommendations of the Commission shall be placed before the Government for their approval.

(5) On the approval of the recommendation of the Commission with or without alteration the lists of each category of officers shall form the select lists. Appointments shall be made by the Government out of the select lists in the same order as their names appear in the said lists and their *inter se* seniority shall be determined in that order in the respective grades.

[Provided that Lecturers appointed from the service by selection in a year shall *en-bloc* be senior to those appointed by direct recruitment in that year.]”

9. Rule 8 prescribes that the screening committee shall consider the cases of eligible and suitable lecturers for being placed in the senior scale and shall prepare a list on the basis of seniority, and the list so prepared shall be referred to the Commission for approval.

10. Admittedly the Petitioner did not plead anything contrary to the reasons cited under Annexure-12 regarding violation of procedural rules in referring the matter to Odisha Public Service Commission (OPSC). Nevertheless, bare reading of Rule 12 reproduced above requires that, the list of eligible persons for Lecturers (Senior Scale)

along with documents shall be forwarded to the Commission and the Commission shall convey its recommendation to the Government after considering cases of all eligible persons.

11. The Petitioner never pleads that the list was either placed before the Commission or the Commission has conveyed its recommendation to the Government. The language employed in Rule 12 suggests an indispensable role of the Commission in the matter of approval and recommendation of the Commission on the list prepared by the screening committee and therefore, the flaw in antedating the date of placement is apparent on record. As such, the impugned order does not warrant any interference.

12. It is next contended on behalf of the Petitioner that one similarly situated person, namely Prasanna Kumar Pati has got the benefits as per Annexure-10 after the order passed by the Tribunal in OA No.1007 of 2005, which is confirmed in WP(C) No.12318 of 2008. The said contention has no merit for consideration for the reason that the order under Ennexeure-10 is dated 6<sup>th</sup> May, 2014 where his name does not find place. Though the order antedating placement of Prasanna Kumar Pati was not placed before this court, but it can be presumed from Annexure-8 that the same is much prior to Annexure-10, may be of the year 2005. Secondly, neither the copy of the order of this court nor copy of the order of the tribunal passed in the case of Prasanna Kumar Pati is placed before this court for perusal.

13. In the result no merit is seen in the writ petition and the same is accordingly dismissed.

**( B.P. Routray )**  
**Judge**