

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C. (OA) No.442 of 2016

Narayan Dehury

.... ***Petitioner***
Mr. K.C. Sahu, Advocate

-versus-

State of Odisha & Others

.... ***Opposite Parties***
Mr. Nilambar Jena, Standing Counsel for S & ME

CORAM:
JUSTICE M.S. RAMAN

ORDER

19.07.2022

Order No.

03. ***1.*** This matter is taken up through virtual/physical mode.
- 2.*** The Original Application No. 442 of 2016 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. 442 of 2016.
- 3.*** The Petitioner, serving as Assistant Teacher of Tribanpur Primary School, under Block Education Officer, Rairakhol Block in the district of Sambalpur, approached this Court under Article 226/227 of the Constitution of India craving for a direction to the opposite parties to sanction and disburse 1st Assured Career Progression on completion of 15 years of service with effect from 01.07.2012 in terms of Rule 14 of the Odisha Revised Scale of Pay Rules, 2008 and Finance Department Resolution dated 06.02.2013. It is submitted that after serving for more than 14 years as on 1st January, 2013, the services of the Petitioner was regularized in the Post of Assistant Teacher with effect from 1st July, 1997. It is further submitted that the Petitioner was an appointee during the incumbency of Mr. K.C. Guru, Ex-Inspector of School, Sambalpur Circle, Sambalpur. The High Level Committee,

having declared appointments of teachers irregular, directed for termination of services. However, the Hon'ble Supreme Court of India in the case of *State of Odisha & Others Vrs. Lingaraj Behera & Others*, Civil Appeal Nos.4584-85 of 2003 (arising out of SLP(C) Nos.18777-78 of 2002, vide Order dated 11.07.2003 reported in (2007) 15 Supreme Court Cases 542 protected the appointment of such teachers. Order dated 11th July, 2003 passed by the Hon'ble Apex Court reported *supra* is quoted hereunder:-

“1. Leave granted.

2. The contention of the appellants is that several teachers had been appointed by one K.C. Guru fraudulently in purported implementation of Circular dated 12th March, 1996. When the fraud was detected, the said K.C. Guru was placed under suspension and orders of termination were issued to those teachers who had been fraudulently appointed. The termination orders were challenged by the teachers concerned before the Orissa Administrative Tribunal (for short “the Tribunal”). The Tribunal allowed the applications filed by the teachers and set aside the order of termination but directed the State Government to appoint a High-Level Committee to go into the matter. The State Government, pursuant to the directions of the Tribunal, appointed the High-Level Committee. The said committee submitted that the report pursuant to which termination orders were served on several teachers who were petitioners before the Tribunal.

3. The writ petition, out of which this appeal arises, was filed by persons who were not parties to the proceedings before the Tribunal. They did so on the apprehension that their services were also likely to be terminated. On the basis of the expressed apprehension, the impugned order was passed, which reads as follows:

“The services of the petitioners may not be terminated pursuant to the observation contained in order dated 10th March, 2000 of the Orissa

Administrative Tribunal, Cuttack Bench, Cuttack in OA No. 2583 (C) of 1999 and other connected cases at Annexure-6.

It is needless to mention here that as we have stayed the above direction of the Tribunal, the consequential letter of the Government dated 29th May, 2002 at Annexure-7 shall not be given effect to.

Miscellaneous case is disposed of”

4. *Learned counsel appearing on behalf of the appellants has stated that the respondent 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 proceeding before the Tribunal or by the report of the High-Level Committee; therefore, they have not been served with any termination order of any notice to show cause. Accordingly to the learned counsel, the respondent-writ petitioners were merely a front to protect the illegally/irregularly appointed primary school teachers 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.*
5. *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 are set aside.*
6. *No costs.”*

4. Such being the position, Mr. K.C. Sahu, counsel for the Petitioner submitted that as the service of the petitioner was not terminated, and he had been serving as regular appointee, the opposite parties ought to have extended the benefit of Revised Assured Career Progression under the provisions of the Odisha Revised Scale of Pay Rules, 2008. In view of Finance Department Resolution bearing No.3560-PCC(A)-49/2012/F,

dated 6th February, 2013, which came into force with effect from 1st January, 2013. Counsel for the Petitioner pressed into service. The representation dated 12th July, 2015 stated to have been submitted to the Block Education Officer, Rairakhol Block in the district of Sambalpur claiming aforesaid benefit has been pending. Mr. K.C. Sahu, counsel for the Petitioner prayed that the Opposite Party No.4 *i.e.*, Block Education Officer be directed to consider the grievance of the Petitioner within stipulated period of time.

5. Mr. Nilambar Jena, Standing Counsel for the School and Mass Education has no objection to said proposal.

6. In view of the above conceded position, the Opposite Party No.4 is directed to consider the representation dated 12th July, 2015 and extend the benefit as claimed for keeping in view of the aforesaid observations made by the Hon'ble Supreme Court as well as Finance Department Resolution dated 6th February, 2013 within a period of three months from the date of production of certified copy of this order.

(M.S. RAMAN)
JUDGE

Laxmikant