

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C(OAC) No.1474 of 2014

Hrudananda Mohanty

.... *Petitioner*

Mr.Basudev Barik, Advocate

-versus-

*Principal Chief Conservator of
Forest (KL) and others*

.... *Opposite Parties*

Mr. H.K.Panigrahi,
Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER
07.4.2022.

Order No.

01. 1. This matter is taken up through hybrid mode.
2. Heard Mr. Basudev Barik, learned counsel for the Petitioner, and Mr. H.K.Panigrahi, learned Addl. Standing Counsel for the State.
3. The Petitioner was engaged as Checker in the year 1979 under the Bonai KL Range as seasonal staff and subsequently

he was engaged as Head Checker. The said work carried consolidated pay of Rs.6,500/- per month. On 31st December, 2011 he was informed by the DFO, KL Range, Rourkela that he would not be engaged from the crop year of 2012 as he had attained the age of 60 years. The said order is enclosed as Annexure-2 to the Writ Petition. The Petitioner claims that his date of birth is 10th October, 1957 as per the School Leaving/Transfer Certificate issued by the Headmaster, Suleipal Project U.P. School (enclosed as Annexure-1 to the Writ Petition) and as such he was due to attain the age of 60 years in October, 2017. The Petitioner claims that one Bijay Kumar Mohanty, who was working as Circle Checker (Opposite Party No.4) had instigated the D.F.O. to disengage the Petitioner by falsely stating that the certificate produced by him was false. The Petitioner approached the learned Odisha Administrative Tribunal in O.A. No.1049(C)/2012. A preliminary objection was raised before the learned Tribunal regarding maintainability of the O.A. as the Petitioner, being a seasonal daily wage worker, was not holding a regular civil post. However, learned Tribunal without observing anything with regard to the maintainability, disposed of the O.A. directing the concerned authorities to consider the grievance of the Petitioner by treating the O.A. as a representation with the further direction that if the decision goes in his favour, he may be reengaged as Head Checker as before.

4. The Opposite Parties considered the grievance of the Petitioner as laid in the Original Application , but by order dated 25th November, 2013, rejected the same on the ground that by letter No.15 dated 10th March, 2011, the Gengutia Panchayat High School had intimated that the said School had been established in the year 1990. Being aggrieved, the Petitioner had approached the Tribunal again in O.A. No.1474 (C)/2014 which has since been transferred to this Court and registered as the instant Writ Petition.

5. As it appears, even as per the Petitioner's contention, he would have attained the age of 60 years in October, 2017 and, therefore, the question of issuing any direction to reinstate him in work does not arise. However, as submitted Mr. Barik, had the Petitioner continued till 2017, he would have been entitled to gratuity by treating his service period from 1979 to 2017. A perusal of Annexure-2 reveals that while holding that the Petitioner is not due for engagement from the crop year, 2012 onwards, the authorities had simultaneously asked him to submit application for gratuity in the prescribed form. Therefore, the Petitioner has a valid cause of action to raise notwithstanding the fact that he has attained the age of superannuation, as per his own statement, in the year 2017.

6. It is observed that upon receipt of a complaint purportedly submitted by the Opposite Party No.4, the Opposite Party authorities verified the authenticity of the certificate

(Annexure-1) from Gengutia Panchayat High School. There is nothing on record to suggest that the Petitioner was ever a student of such High School, which incidentally was established in the year 1990. It further appears that the District Inspector of Schools, Talcher was requested to verify the authenticity of the certificate in question from the Headmaster, Suleipal PUPS, who in reply, stated that the admission number and date are not visible in the Original Admission Register, the Class Promotion Register of the relevant period is not available and that the Date of Birth in the Admission Register is over written. Significantly, a copy of the School Leaving Certificate/Transfer Certificate was also enclosed by the District Inspector of Schools. A reading of the letter of the District Inspector of Schools, Talcher (enclosed as Annexure-6 series) nowhere reveals that the certificate in question was positively described as inauthentic or forged or false etc. So, basing on the information received by the District Inspector of Schools Talcher, it could not have been conclusively held that the certificate in question was false. As stated earlier, the letter of Headmaster, Gengutia Panchayat High School, Basulei is irrelevant since there is no material to show that the Petitioner was ever a student of that School. Such being the factual position, this Court is constrained to observe that the finding of the concerned authorities that the certificate, as at Annexure-1, was forged does not appear to have any reasonable or factual basis. Moreover, despite specific direction of the learned

Tribunal the concerned authorities do not appear to have considered the matter in the proper perspective.

7. For the foregoing reasons, therefore, this Writ petition is disposed of by directing the Opposite Party Nos.2 and 3 to reconsider the grievance of the Petitioner on the basis of the information furnished by the District Inspector of Schools, Talcher. It goes without saying that if the Certificate in question is found to be authentic, the Petitioner's dues towards gratuity be paid by treating the period of engagement from 1979 to 2017 of course, the period from 1st December 2011 to 31st October, 2017 shall be included only notionally. The concerned Opposite Parties are directed to pass necessary orders in this regard within a period of two months from the date of communication of this order or on production of a certified copy thereof by the Petitioner.

AKB

(Sashikanta Mishra)
Judge