

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C. (OA) No.3099 of 2013

Ashok Kumar Mohapatra

....

Petitioner

None

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. R.C. Pattnaik, ASC for School
and Mass Education

CORAM:
JUSTICE M.S. RAMAN

ORDER

29.04.2022

Order No.

07.

1. This matter is taken up through virtual/physical mode.
2. The Original Application No. 3099 of 2013 was filed before the State Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OA) No. 3099 of 2013.
3. The Petitioner, Assistant Teacher challenged the illegality of the order dated 18th November, 2013 of the Director of Elementary Education. The grievance of the Petitioner is that the group of teachers of Level-III are promoted to Level-II in the scale of pay 9300-34800 and posted as Assistant Block Educational Officer. The Petitioner has also pointed out that vide letter dated 31st May, 2013, the Government has taken a decision to merge both Secondary and Elementary Cadre and created different posts including the post of District Education Officer, Block Education Officer and Assistant Block Education Officer. Thereby, the Petitioner alleges that promotional opportunities have been

restricted to the staff of the Secondary cadre like that of the Petitioner for promotion to the posts of Additional Block Education Officer.

4. None appears for the Petitioner at the time of all.

5. Mr. R.C. Pattnaik, Additional Standing Counsel for the School and Mass Education appearing on behalf of the Opposite Party Nos. 1 to 4 submitted that pursuant to decision of the Government which is essentially of policy decision, the permission has been accorded in consonance of such policy decision of the Government. Therefore, the challenge of the Petitioner need not be entertained.

6. Perusal of Annexure-2 which bears letter No. 12896-VI-SME-(B)-79/2012 dated 31st May, 2013 issued by Government of Odisha in School and Mass Education Department, reveals that posts of Block Education Officer have been created. The contents of the letter is reproduced here under:-

"I am directed to convey the sanction of Governor for creation of 314 posts of Block Education Officer in the pay scale of Rs. 9300-34800 (PB-2) with Grade Pay of Rs. 4600/- and 948 posts of Assistant Block Education Officer (Level-II of OES) (@3 for 314 Blocks and 1 each for major 6 ULBs i.e., Cuttack, Bhubaneswar, Berhampur, Puri, Rourkela and Sambalpur) in the pay scale of Rs. 9300-34800 (PB-2) with Grade Pay of Rs. 4200/- for 314 newly created Block Education Offices as per the list enclosed at Annexure-1. These posts are created on account of re-organization of S & ME Department vide Notification No. 11940/SME Dated 18th May, 2013.

These posts will carry Dearness Allowances and Other Allowances as admissible under rules from time to time.

Out of 314 nos. of posts of Block Education Officer, 162 nos. of posts shall be manned by the officers of OES-II (School Branch). The remaining 152 posts shall be manned by the officers of Odisha Elementary Education Service (OES)-I i.e. level-I of existing Odisha Elementary Education Cadre.

Consequent upon creation of the posts of 314 Block Education Officer, the existing posts of 64 District Inspector of Schools, 19 posts of Administrative-cum-Accounts Officer, 13 posts of District Mass Education Officer in the pay scale of Rs.9300-34800 (PB-2) with Grade Pay of Rs.4600/- and 56 posts of Deputy Inspector of Schools in the pay scale of Rs.9300-34800 (PB-2) with Grade Pay of Rs.4200/- as per the list enclosed at Annexure-II,III,,IV,V and the existing 990 posts of Sub-Inspector of Schools in the pay scale of Rs. 9300-34800 (PB-2) with Grade Pay of Rs.4200/- in 314 blocks shall be abolished.

Due to above reorganization, the incumbents belonging to Odisha Elementary Education Services (OEES) level-I presently holding the post of DI of Schools & Administrative-cum-Accounts Officer shall be absorbed in the newly created posts of Block Education Officer. The District Mass Education Officers who are presently holding the posts of Di of Schools shall also be absorbed as Block Education Officers.

The incumbents presently holding the posts of Deputy Inspector of School (Level-II of OEES) shall be absorbed against the newly created posts of Assistant Block Education Officer (Level-II of OEES) and the rest posts of Assistant Block Education Officer (Level-II of OEES) shall be filled up by the incumbents presently holding the posts of Sub-Inspector of Schools (Level-III) on promoting along with other level-III posts of OEES cadre in due process.

The charge is debitable to Demand No. 10-2202 General Education-01-Elementary Education-104-Inspection-0534-General-(Non Plan) voted in the Budget Estimate for 2013-14.

This has been concurred by Finance Department vide UQR No.44-SS-I dated 2nd March, 2013.”

7. Government of Odisha in School and Mass Education issued notification bearing No.11940-VI-SME-(B)-79/2012 dated 18th May, 2013, where under the School and Mass Education Department has been reorganized. The said notification is reproduced hereunder.:-

“The issue of Re-organisation of S& ME Department from State Level to Block Level was identified as the immediate need of the Department to improve the efficiency

and effectiveness of education administration. The matter was passed by the Cabinet on 24th May, 2005.

The Cabinet approved the re-organisation of S & ME Department with the condition that the posts in existing grades can be shifted and re-positioned as per the re-organisation plan and creation up-gradation of any post will be subject to detailed examination by the Department and formal concurrence of Finance Department and Administrative Reforms Department.

On the basis of above approval, Govt. had constituted an Implementation Committee for the purpose. The Implementation Committee taking into consideration of hierarchy and pyramid structure and to maintain quality administration and single line command, proposed for one District Education Officer in each district supported by two Additional District Education Officer, one each for Elementary and Secondary (@1 in 6 districts where the nos. of blocks are less than 7 @ 2 in other districts) along with detailed up gradation/creation and repositioning of staffs from field level to block level.

The report of the Implementation Committee was endorsed to the Finance Department had returned the file with certain observations.

Consequent upon implementation of flagship programme like RTE, SSA, RMSA, Sakshar Bharat and MDM, the workload of S& ME Department had increased considerably. Presently at District level, there are separate offices for Elementary, Secondary and Mass Education who have no co-relation though some of above schemes are co-related with each other. Further at Block Level, the entire elementary education is dependent on the BDO without any supporting staffs who is already over burdened. As a result, the supervision as well as the administration at grass root level is jeopardized.

In view of this, reorganization of the Department from Block Level to District level is required for Educational Administration system on single line command approach. xxxxxxxx”

8. The present writ petition related to 2013 and this Court does not find any reason to interfere in the matter as the

reorganization of School and Mass Education Department notification has been given effect to.

9. In view of the above, the writ petition is dismissed however liberty is granted to the Petitioner to revive the petition within 90 days from today in case the cause of action still subsists.

(M.S. Raman)
Judge

Laxmikant

