

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.1690 of 2014

In the matter of an application under Section 19 of the
Administrative Tribunal's Act, 1985.

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Pratyush Ranjan Satapathy **Petitioner**

-versus-

State of Odisha & Ors. **Opposite Parties**

For Petitioner : M/s. L.K. Mohanty and
Mr. B.K. Jena

For Opp. Parties : Standing Counsel
Mr. N.N. Satpathy

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 11.05.2022 and Date of Order: 18.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. L.K. Mohanty, learned counsel for the Petitioner and Mr. N.N. Satpathy, learned counsel for the State-Opp. Parties.
3. The present writ Petition has been filed with a prayer to quash the communication dtd.07.02.2014 issued under Annexure-6 and

with a further prayer to release all service and financial benefits as due and admissible in favour of the Petitioner.

4. It is submitted by the learned counsel for the Petitioner that the Petitioner was appointed as a Primary School Teacher under the provision of Rehabilitation Assistance Scheme on 02.09.1995.

5. It is further submitted that because of his arrest in Mahila P.S. Case No.48 dtd.05.10.2005, the Petitioner was placed under suspension vide order dtd.19.10.2005 under Annexure-1. It is further submitted that subsequently vide office order dtd.20.01.2006 the Petitioner was reinstated in his service.

6. It is submitted that challenging the order of reinstatement, the wife of the Petitioner when approached this Court in W.P.C. No. 9875 of 2006, the said writ Petition was dismissed by this Court vide order dtd.12.02.2007 under Annexure-3.

7. It is submitted that while the matter stood thus basing on another complaint made by the father-in-law of the Petitioner, when the impugned communication dtd.07.02.2014 was issued by the O.P. No.4, the Petitioner challenging the same, approached this Court in the present writ Petition.

8. It is submitted that while issuing notice of the matter, this Court vide order dtd.29.01.2015 passed an interim order by directing that no coercive action is to be taken against the Petitioner pursuant to the said communication under Annexure-6. But it is submitted that in view of the impugned communication issued under Annexure-6 and the pendency of the matter before this Court, Opp. Parties are not releasing the benefit of increment and other financial benefits as due to the Petitioner.

9. It is also submitted that in the meantime the wife of the Petitioner seeking removal of the Petitioner from his service also approached this Court in W.P.C. No.17278 of 2015. But this Court taking into account the fact that the wife of the Petitioner has never challenged the rejection of her application to intervene in the present writ Petition, disposed of the said writ Petition vide order dtd.03.05.2017 by granting liberty to the wife of the Petitioner to move appropriate forum, if any cause of action still survives.

10. Mr. Mohanty, learned counsel for the Petitioner submitted that because of the issuance of the impugned communication under Annexure-6, the Petitioner even though is continuing in his post, but he is not getting the increments and other financial benefits as due and admissible. Opp. Parties are also not ready to regularize the period of suspension.

11. Mr. Mohanty in support of his aforesaid submission relied on a decision of this Court reported in **2014 (II) OLR 1018**. Relying on the said decision, Mr. Mohanty, learned counsel for the Petitioner submitted that in service matter PIL should not have entertained. Accordingly, Mr. Mohanty prayed for interference of this Court in the impugned communication issued on 07.02.2014 under Annexure-6.

12. Mr. Satpathy, learned counsel for the State-Opp. Parties made his submission basing on the stand taken in the counter affidavit. It is submitted that the order of conviction and sentence passed against the Petitioner in G.R. Case No.988 of 2005 is pending adjudication before this Court in Criminal Revision NO.457 of 2013. It is submitted that since the matter is pending before this Court in the above said Criminal Revision No.457 of 2013, the

Petitioner is continuing in his post as before. But Mr. Satpathy, learned counsel for the State-Opp. Parties did not dispute the order passed by this Court under Annexure-3 and the order passed on 03.08.2017 in W.P.C. No.17278 of 2015.

13. Heard learned counsel for the Parties. It is not disputed that basing on the F.I.R. lodged by the wife of the Petitioner, the Petitioner was implicated in Mahila P.S. Case No.48 dtd.05.10.2005 and he was placed under suspension vide order under Annexure-1 dtd.19.10.2005. It is also not disputed that vide order dtd.20.01.2006 the Petitioner was reinstated as Assistant Teacher and he is continuing in the said capacity till date.

14. It is also not disputed that the prayer of the wife of the Petitioner to intervene in this writ Petition was rejected by the learned Tribunal and the said order of rejection was never challenged. Therefore, basing on the complaint made by the Father-in-law of the Petitioner, O.P. No.4 should not have sought for any clarification vide the impugned communication dtd.07.02.2014 under Annexure-6.

15. On the mere issuance of the said show cause, where an interim order has been passed by this Court on 29.01.2015, the Authority should not have withheld the increments and other financial benefits as due to the Petitioner. The complaint made by the Father-in-law of the Petitioner basing on which the impugned communication under Annexure-6 has been issued is no doubt, not entertainable in a service dispute, and the O.P No.4 should not have issued the impugned communication basing on such stand made by the Father-in-law.

16. Therefore, while quashing the said communication under Annexure-6 this Court directs the Opp. Parties to extend the benefit of increments and other financial benefits as due and admissible by regularizing the period of suspension within a period of 3 (three) months from the date of receipt of this order.

17. With the aforesaid observation and direction the writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 18th of May, 2022/Sneha

