IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No. 3972 of 2012

Alekha Behar .... ***Petitioner***

None

-versus-

State of Odisha & others .... ***Opp. Parties***

Mr. D. Mohapatra, SC (S & ME)

CORAM:
JUSTICE M.S. SAHOO

ORDER

Order No. **27.04.2022**

04. 1. This matter is taken up through hybrid mode.

2. None appears for the petitioner. When matter was listed on 17.02.2022, it was adjourned to 16.03.2022 at the instance of the learned counsel for the petitioner. Prior to the listing on 17.02.2022 for the first time before this Court, the matter was never listed before the learned Tribunal after 30.04.2014.

3. On 16.03.2022, none had appeared for the petitioner and the matter was again adjourned to 28.03.2022. On 28.03.2022, learned counsel for the petitioner appeared and the matter was heard in some detail as reflected in the order dated 28.03.3022, which is quoted herein:-

"2. On 17.2.2022 when the matter was taken up, following order was passed:

> *"This matter is taken up through hybrid mode.*
>
> *The writ petition has been renumbered and registered before this Court on 01.12.2021 after being transferred, upon abolition of the Orissa Administrative Tribunal, Cuttack Bench, Cuttack.*

RJ

On perusal of the available order-sheets of the learned Tribunal, it is found that the matter was never listed after 30.04.2014.

Learned counsel for the petitioner submits that he may be accommodated as he is indisposed due to personal difficulty.

List this matter on 15.03.2022."

3. Again on 16.3.2022 none had appeared for the petitioner and the following order was passed :

"This matter is taken up through hybrid mode.

None appears for the petitioner when the matter is called.

When the matter was taken up on 17.02.2022, the following order was passed :-

"The writ petition has been renumbered and registered before this Court on 01.12.2021 after being transferred, upon abolition of the Orissa Administrative Tribunal, Cuttack Bench, Cuttack.

On perusal of the available order-sheets of the learned Tribunal, it is found that the matter was never listed after 30.04.2014.

Learned counsel for the petitioner submits that he may be accommodated as he is indisposed due to personal difficulty.

List this matter on 15.03.2022."

To grant another opportunity to the petitioner, list this matter on 28.03.2022."

4. Today when the matter is taken up, learned counsel for the petitioner submits that the matter being old one, he has not been able to trace out the case brief and may be accommodated.

5. The Original Application was filed in the year 2012

when the petitioner was aged about 57 years, inter alia, challenging the order dated 3.9.2012 (Annexure-2) passed by the Director, Elementary Education, Odisha, Bhubaneswar (O.P. No.2) implementing the order dated 23.12.2011 of this High Court passed in W.P.(C)No. 14979 of 2020.

6. It is submitted by learned Standing Counsel for the opposite parties that the petitioner would have retired in the year 2013 on attaining the age of superannuation and the petitioner cannot challenge an intra-departmental communication of the Government directing all the District Inspector of Schools for implementing the order of this Court dated 23.12.2011 passed in W.P.(C) No. 14979 of 2010.

7. On perusal of the pleadings in the Original Application filed in the year 2012 at paragraph 6(i) the following has been stated :

> *"That the applicant humbly states that, the D.I. of Schools has prepared the gradation list in which he has not sought for any objection directly prepared the final gradation list in which his name found place at sl.no.18, the applicant is not able to collect the gradation list as it has not been circulated amongst the applicant (teachers). Therefore, this Hon'ble Tribunal may be directed to the respondent no.3 to produce the gradation list before this Hon'ble Tribunal for adjudication of case."*

8. It is further submitted by the learned counsel for the petitioner that though he does not have the case brief, the petitioner wants the salary for the period he worked.

9. No such prayer has been made in the O.A. to receive salary.

9. Petitioner, if aggrieved by any order passed this Court, could have as well challenged the same by filing SLP before the Hon'ble Supreme Court instead of challenging the letter dated 3.9.2012 (Annexure-2) which is an intra-Departmental communication from the Director, Elementary Education to all the Inspector of Schools for implementation of the order passed by this Court.

10. Considering the prayer made by the learned counsel for the petitioner, the matter is adjourned to

27.4.2022, to grant another opportunity to the petitioner.

4. Learned Standing Counsel, School and Mass Education Department reiterates the submissions as indicated in the order dated 28.03.2022.

5. Having heard learned Standing Counsel and in view of the repeated non-appearance of the petitioner, the writ petition is dismissed for non-prosecution.

(M.S. Sahoo)
Judge