

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAPC) No. 377 of 2012

Haladhar Behera

.....

Petitioner

Mr. B.Satapathy, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr.S. Jena, SC, S&ME Deptt

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

12.10.2022

Order No.

05

This matter is taken up through hybrid mode.

2. Heard Mr. B. Satapathy, learned counsel for the Petitioner and Mr. S. Jena, learned Standing Counsel for S&ME Deptt.

3. The petitioner has filed this writ petition seeking direction to the opposite parties 1 and 2 to give promotion to the petitioner to the post of Headmaster, U.P. (M.E.)/U.G.M.E. School against the vacancies existed prior to 12.08.1997 in terms of G.O. No. 8978 dated 29.05.2010 with all other consequential and financial benefits as due and admissible to him in accordance with law.

4. Mr. B. Satapathy, learned counsel for the Petitioner contended that though the junior of the petitioner, namely Gagan Chandra Das, who has been placed at Sl. no. 111 of the gradation list has been given promotion, but the petitioner whose position is at Sl. no. 61 of the gradation list, he has not been given promotion. Therefore, he has approached this Court in the present writ petition. In the meantime the petitioner has already been retired from service and in the event the

benefit is granted to the petitioner, only the pensionary benefits would be revised accordingly.

5. Mr. S. Jena, learned Standing Counsel for S&ME Deptt. contended that since junior to the petitioner, namely Gagan Chandra Das, who has been placed at Sl. no. 111 of the gradation list has been given promotion and the petitioner whose position is at Sl. no. 61 of the gradation list has not been extended with such benefit, the matter will be placed before the District Level Promotion Committee and in the event the committee considers the fact that the petitioner is entitled to get promotion, then all the consequential benefits shall be paid to him in accordance with law.

6. Having heard learned counsel for the parties and after going through the record, it appears that the petitioner's name finds place at Sl. No. 61 of the gradation list, which was published by the authority and has been placed on record at Annexure-A/4 to the counter affidavit filed by opposite party no.4. One Gagan Chandra Das, who has been placed at Sl. No. 111 of the gradation list has already got promotion, but the petitioner being senior person in the gradation list has not been extended with such promotion. This Court called upon the state counsel to file counter affidavit and in response to the same counter affidavit has been filed on 08.04.2022. In paragraph-7 of the said counter affidavit, it has been stated as follows:-

7. However, after examination of gradation list it is found that the name of the petitioner in the District Level Gradation list for Promotion to the post of Headmaster, UGME/Govt. M.E. School Level-III is at Sl. No. 61 and the petitioner is senior to Gagan Das who has already

promoted earlier having Sl. No. 111. Hence, the case of the petitioner for notional promotion may be considered after due approval of the District Level Promotion Committee as well as Director, Elementary Education, Odisha, Bhubaneswar. Copy of gradation list dtd.31.1.1992 is annexed herewith as **Annexure-A/4**.

7. In view of the candid statement made in paragraph-7 as quoted above, let the case of the petitioner for grant of promotion be placed before the District Level Promotion Committee as well as Director, Elementary Education, Odisha, Bhubaneswar for extension of promotional benefit to the petitioner at par with junior Gagan Chandra Das, who has been given the benefit and in the meantime the petitioner has retired. Therefore, the retiral benefits be computed accordingly by extending the benefit of promotion to the petitioner, if he is otherwise eligible. The entire decision be done within a period of four months from the date of communication of the order.

8. With the above observation/direction, the writ petition stands disposed of.

(DR. B.R. SARANGI, J.)

Arun