

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No. 4163 of 2013

Bhikari Charan Jena

....

Petitioner

Mr. Abhiram Swain, Advocate

-versus-

State of Odisha & others

....

Opp. Parties

Mr. Pravat Ku. Panda, SC (S & ME)

Mr. T.K. Praharaj, Standing Counsel

CORAM:

JUSTICE M.S. SAHOO

ORDER

11.04.2022

Order No.

02.

1. This matter is taken up through hybrid mode.
2. When the matter was last taken up on 23.03.2022, after hearing learned counsel for the parties, the following order was passed:-

2. The Original Application having been transferred from the learned Orissa Administrative Tribunal, Cuttack Bench, Cuttack upon its abolition, has been registered before this Court on 6th December, 2021.

3. On perusal of the available order sheets of the learned Tribunal it is indicated that the matter was never taken up after 4.9.2014.

4. The O.A. was filed in the year 2013 by the petitioner/applicant when he was 46 years of age working as Peon in Govt. Girls High School, Pattamundai.

5. The O.A. was filed challenging the order dated 14.5.2013 (Annexure-14) passed by the Director, Higher Secondary Education, Odisha, Bhubaneswar (O.P. No.3) refusing the prayer of the petitioner in the representation for promotion to the post of Assistant Teacher.

6. It is submitted by learned counsel for the petitioner that since the matter is old one, he could not trace out the case brief immediately and may be accommodated

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for a short time.

7. Learned Standing Counsel referring to the order dated 14.5.2013 (Annexure-14) submits that the petitioner has been continuing as a Class IV employee, Peon in Govt. Girls High School and he cannot be considered for the post of Assistant Teacher which a teaching post under the subordinate education service cadre.

8. To grant another opportunity to the petitioner, list on 11.4.2022.”

3. Learned counsel for the petitioner was again requested to point out any provision that provides a non-teaching Class-IV employee, having acquired teaching qualification can be considered for the post of Assistant Teacher. In response, he has not pointed out any particular provision or any circular to that effect.

4. Learned counsel for the petitioner only gives the instances of the persons where certain employees who had appeared and appointed as indicated in Annexure-15 series. The said orders also lack the details like outward issue number and date etc.

5. It is submitted by the learned Standing Counsel referring to the averment made in the O.A./writ petition and the impugned order passed by the Director, Higher Secondary Education (Annexure-14) that there is no such provision or guideline ever formulated by the Government to give promotion to a person working in Class-IV to become a member of the teaching cadre as Assistant Teacher.

6. Learned Standing Counsel further submits that a person who is already appointed in Class-IV can very well seek his appointment through a selection process of the Assistant Teacher that may result his appointment, which

cannot be generalized to the extent that a Class-IV employee can seek career progression to become a Assistant Teacher.

6. Learned counsel for the petitioner submits that pursuant to the order dated 23.3.2022, he tried to obtain instruction from the petitioner and the matter being old one, he has no up-to-date instruction.

7. Having heard learned counsel for the parties, the writ petition is disposed of for lack of up-to-date instruction from the petitioner to pursue the litigation at present.

