

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 1653 of 2011

*Niranjan Kund*

.....

*Petitioner*

*Mr. S. Satpathy, Adv.*

Vs.

*State of Odisha and others*

.....

*Opposite Parties*

*State Counsel*

**CORAM:**

**DR. JUSTICE B.R. SARANGI**

**ORDER**

**14.10.2022**

**Order No.**

02.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Satpathy, learned counsel for the petitioner and Mr. S. Jena, learned Standing Counsel for School and Mass Education Department.

3. The petitioner has filed this writ petition seeking direction to the opposite parties to treat him as a Pre-1.1.2005 appointee and allow him to be governed under the old pension Rules, 1992.

4. Mr. S. Satpathy, learned counsel for the petitioner contended that the petitioner has got appointment under rehabilitation assistance scheme by order dated 24.05.2007 and, as such, now he claims that he should be treated as a Pre-1.1.2005 appointee and the opposite parties may be directed to allow him to be governed under the old pension Rules, 1992.

5. Mr. S. Jena, learned Standing Counsel for School and Mass Education Department contended that in terms of the order dated 24.05.2007 under Annexure-8, the petitioner is aware of the fact that he has been included under the purview of Contributory Pension Scheme, as per the Finance Department Resolution No.99/2006 dated 13.07.2006. He having accepted the terms and conditions of the appointment order, as per the finance department resolution, now

cannot turn around and ask for inclusion of his name for grant of benefits as a Pre-1.1.2005 appointee. Thereby, the claim of the petitioner cannot be sustained in the eye of law.

6. Having heard learned counsel for the petitioner and after going through the records, this Court finds that the petitioner was appointed as an Asst. Teacher (Level-V of Elementary Cadre) in the scale of pay of Rs.3600-100-5600/- with usual DP and admissible D.A. under the rehabilitation assistance scheme by the Govt. of Orissa in School and Mass Education Department, vide order dated 24.05.2007. The appointment order under Annexure-8 dated 24.05.2007 clearly indicates that “Contributory Pension Scheme is applicable to them as per Finance Department Resolution No.99/2006-30132F dated 13.07.2006”. Therefore, the petitioner knowing fully well the terms and conditions of the appointment order dated 24.05.2007, joined in the said post and continued as an Asst. Teacher. As such, subsequently he cannot claim that he should be treated as a Pre-01.01.2005 appointee and the opposite parties allow him to be governed under the old OCS Pension Rules, 1992. Rather, having accepted the terms and conditions of the appointment order, the petitioner is estopped from making such prayer and, as such, the claim of the petitioner cannot be sustained in the eye of law.

7. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

**(DR. B.R. SARANGI)**  
**JUDGE**

*Ashok*