

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 4160 of 2011

Surendra Kumar Nayak

...

Petitioner

.

Mr. M.K. Sahoo, Adv.

-Versus -

State of Orissa and others

....

Opposite Parties

Mr. S. Jena, Standing Counsel S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

21.10.2022

Order No.

05

This matter is taken up through hybrid mode.

2. Heard Mr. M.K. Sahoo, 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 consider his case for promotion to the rank of Headmaster with effect from the date from which his juniors were promoted, and grant all consequential service and financial benefit in his favour within a stipulated time.

4. Mr. M.K. Sahoo, learned counsel for the petitioner contended that as because the juniors to the petitioner approached the tribunal by filing original applications, their cases have been considered by the authority by granting promotions to them whereas the petitioner, who is senior to them, his case has not been considered by the authority. Therefore, the petitioner has approached this Court by filing the present writ petition.

5. Mr. S. Jena, learned Standing Counsel for School and

Mass Education Department contended that seniority would be counted from the date of acquiring B.Ed. qualification and accordingly promotions have been given taking into consideration the date of acquisition of B.Ed. qualification. He has relied upon the judgment passed by the tribunal in O.A. No.609 of 1994 disposed of on 07.11.1998, wherein it has been held that for the purpose of promotion to the post of Headmaster in Govt. M.E. school and U.G.M.E. school, seniority of teachers in the feeder cadre shall be counted from the date of their appointment and not from the date of acquiring B.Ed. qualification. It is further contended that the case of the petitioner is covered by the judgment of this Court in the case of **P. Bangali Patra v. State of Orissa**, 2006 (Supp.2) OLR 770.

6. Considering the contention raised by learned counsel for the parties and after going through the records, since the aforesaid question has already been decided by this Court in **P. Bangali Patra v. State of Orissa**, 2006 (Supp.2) OLR 770, this writ petition stands disposed of directing the opposite parties-authority to consider the grievance of the petitioners in the light of the judgment passed by this Court in **P. Bangali Patra** mentioned supra and pass appropriate order in accordance with law. Needless to say in the event promotion will be given to the petitioner from the date his juniors were promoted, then in that case, opposite parties-authority are directed to calculate the pensionary and retiral benefits of the petitioner and pay the same to the petitioner in accordance with law. The entire exercise shall be completed within a period of three months from the date of communication of this order.

Issue urgent certified copy as per rules.

Ashok

(Dr. B.R. Sarangi)
Judge