

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.4171 of 2011

Joginath Sahu

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
18.10.2022

Order No

- 02.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. M.K. Sahoo, learned counsel for the petitioner and Mr. N.N. Satapathy, learned Standing Counsel appearing for the Opp. Parties.
3. The present writ petition has been filed with the following prayer.

“Necessary direction directions, order/orders be passed so as to give promotion to the applicant to the vacant post of Headmaster in U.P(M.E) Schools existing prior to 12.8.1997 with all promotional and financial benefits, following the ratio of the judgments of this Hon’ble Tribunal and the Govt. policy decision under Annexure-3.

And/or pass any other order/orders, direction/directions so as to declare the applicant to get his promotion from the date of promotional due prior to 12.8.1997 in respect of the existing vacancies in the post of Headmaster.”

4. It is submitted that pursuant to the order passed by the learned Tribunal in O.A. No.609 of 1994 under Annexure-2, Government in the Department of School and Mass Education vide its

communication dated 29.05.2010 under Annexure-3 decided to give promotion to the eligible person to the post of Headmaster U.P Schools/U.G.M.E school against the vacancies existed prior to 12.8.1997. It is also submitted that subsequently a cadre list of Trained Graduate Assistant Teacher under the D.I. of Schools, Bhubaneswar under Annexure-4 was published wherein the petitioner's name finds place at serial No.4. However, it is submitted that in terms of the communication issued under Annexure-3, no further action was taken and the petitioner was never extended with the benefit of promotion. Accordingly, it is submitted that necessary direction be issued to opp. party No.2 to consider the claim of the petitioner as made in the writ petition.

5. Mr. Satapathy, learned A.S.C on the other hand, submitted that since the petitioner has retired in the meantime, opp. party No.2 while taking a decision, may take into consideration as to whether vacancies are available at the relevant time in order to extend the benefit of promotion in favour of the petitioner.

6. Having heard learned counsel for the parties and after going through the materials available on record, this Court finds that the communication issued by the Government under Annexure-5 was never implemented in letter and spirit and the petitioner without availing the benefit of promotion retired from service.

7. Therefore, this Court while disposing the writ petition directs opp. party no.2 to take a decision on petitioner's claim as made in the writ petition, within a period of three months from the date of receipt of this order. While taking such a decision, opp. party no.2 shall also look into the fact whether vacancies were available at the relevant point of time in order to extend the said benefit in favour of

the petitioner. It is also observed that while taking such a decision , opp. party No.2 shall take into consideration the decision of the learned Tribunal reported in **2011 (1) OLR (CSR) 719**, if it is applicable to the claim of the petitioner.

8. With the aforesaid observation and direction, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Sneha

