

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.4172 of 2011

Gour Chandra Chatterjee 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. Prusty, learned Standing Counsel.

3. The present writ petition has been filed with the following prayer.

“Necessary direction/directions, order/orders be passed so as to grant all promotional and financial benefit (current and arrear) in respect of post of Headmaster w.e.f.30.12.95 from the date, the applicant has been discharging his duties without any break.

Necessary direction/directions be made to the respondents to release all financial benefits in favour of the applicant by re-fixing his scale in the said post of Headmaster w.e.f.30.12.95 and grant all consequential retiral benefits.

Any other order/orders be issued so as to give complete relief to the applicant.”

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 30.12.1995 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.6. 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. Prusty, 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-3 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

