

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OAC) No.4460 of 2011

Krushna Chandra Sahoo

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

14.10.2022

Order No

3.

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. B. Routrary, learned Senior Counsel appearing along with Mr. S. Routrary, learned counsel for the petitioner and Mr. S. Jena, learned Standing Counsel for School & Mass Education Department.

3. The petitioner has filed this writ petition seeking direction to the opposite parties to take into account the period spent by him as an Attendant for the purpose of counting seniority, promotion, pension and fixation of his pay and to fix his pay after giving him the pay protection, which, he would have got as per the ORSP Rules, 2006, and further seeks direction that the petitioner is governed under Orissa Civil Services (Pension) Rules, 1992, as it stood prior to its amendment in the year 2005.

4. Mr. B. Routrary, learned Senior Counsel for the petitioner contended that the case of the petitioner is squarely covered by the judgment dated 28.09.2015 passed by the Odisha Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 3251 (C) of 2011 (Pratap Chandra Mallick v. State of Orissa & Ors.) and batch and the said judgment was challenged before this Court by the State in W.P.(C) No. 23678 of 2017 and this

Court dismissed the said writ petition by order dated 13.07.2018, thereby confirming the judgment dated 28.09.2015 passed by the tribunal in O.A. No. 3251 (C) of 2011. Therefore, the relief sought in this writ petition may be granted to the petitioner taking into consideration the judgment dated 28.09.2015 passed by the tribunal in O.A. No. 3251 (C) of 2011, which has been confirmed by this Court with the dismissal of the writ petition.

5. Mr. S. Jena, learned Standing Counsel for School & Mass Education Department has contended that there is difference between the facts of the present case and that of the judgment dated 28.09.2015 passed by the tribunal in O.A. No. 3251 (C) of 2011 and batch, inasmuch as in those case the petitioners were working as Resource Teachers under integrated education for the disabled children unit under the scheme, whereas the present petitioner is working as Attendant under the said scheme and, thereby, the ratio decided in the said judgment may not be applicable to the present case.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, this Court finds that the petitioners in O.A. No. 3251(C) of 2011 and batch were working as Resource Teachers under integrated education for the disabled children unit under the scheme, whereas the present petitioner is working as Attendant under the very same scheme. Thereby, merely because there is change in nomenclature, for that itself it cannot be construed that the judgment of the tribunal passed in O.A. No. 3251(C) of 2011 and batch is not applicable to the petitioner. Therefore, the grievance of the petitioner is liable to be considered in the light of the judgment dated 28.09.2015 passed by the tribunal in O.A. No. 3251 (C) of 2011 (Pratap Chandra Mallick v. State of Orissa & Ors.) and batch, which has been confirmed by this Court vide

order dated 3 13.07.2018 passed in W.P.(C) No. 23678 of 2017. Needless to say, the opposite parties shall apply their mind and if the ratio decided in the above judgment of the tribunal is applicable to the case of the petitioner, then the benefits to the petitioner shall be extended in accordance with law, within a period of three months from the date of communication of this order.

7. With the above observation and direction, the writ petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

