

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 40264 of 2021

Kailash Chandra Nayak

.....

Petitioner

Mr. D.N. Rath, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Standing Counsel S&ME

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

25.01.2022

Order No.

01

This matter is taken up by video conferencing mode.

2. Heard Mr. D.N. Rath, learned counsel for the petitioner and learned Standing Counsel for School and Mass Education Department.

3. The petitioner has filed this application seeking direction to the opposite parties to treat the petitioner at par with the employees of other aided educational institutions, who have been extended with grant-in-aid in accordance with Grant-in-Aid Order, 1994, and accordingly extend all benefits as applicable to the aided educational institutions within the meaning of Section 3(b) of the Orissa Education Act, such as earned leaves as prescribed under Rule 9 of 1977 Rules, extra ordinary leaves as prescribed under Rule 12 of 1977 Rules, as well as study leaves as prescribed under Rule 13 of 1977 Rules and other benefits as provided under 1977 Rules, Pension Rules, GPF Rules, though the same facilities and benefits were given to the employees of other institutions, which were notified under Section 3(b) of the Orissa Education Act, 1969 pursuant to Grant-in-Aid Order, 1994.

4. Mr. D.N. Rath, learned counsel for the petitioner has contended that since the petitioner is working in an educational institution receiving block grant, in view of the judgment passed in *Ritanjali Giri @ Paul v. State of Odisha (School & M.E.*

Deptt.) & others, 2016 (I) ILR-1162, wherein this Court has already held that the legal heirs of deceased employees of educational institutions receiving block grant are entitled to get compassionate appointment, pursuant to which the Government of Odisha in the Department of School & Mass Education has issued a circular on 01.08.2019 granting benefit of compassionate appointment to the legal heirs of the deceased employees working in fully aided educational institutions and educational institutions receiving grant-in-aid (New)/block grant, therefore, other benefits as claimed in the writ application, should be extended to the petitioner.

5. Learned Standing Counsel for School and Mass Education Department contended that in view of law laid down in *Ritanjali Giri @ Paul* (supra) although benefit of compassionate appointment to the legal heirs of the deceased employees of educational institutions receiving block grant has already been extended by the State Government, pursuant to letter dated 01.08.2019, but so far as other claims as made in this writ application, the petitioner is not entitled to get the same, as because the benefit of Grant-in-Aid Order, 1994 was denied by this Court in *State of Odisha v. Sri Lokanath Behera*, 2018 (II) OLR 932, which has been confirmed by the apex Court in Civil Appeal No. 7295 of 2019 arising out of SLP(C) No. 8343 of 2019 disposed of on 16.09.2019.

6. Considering the contentions raised by learned counsel for the parties and after going through the record, this Court is of the considered view that since the benefit of compassionate appointment to the legal heirs of deceased employees of educational institutions receiving block grant has already been extended by the authority, vide circular dated 01.08.2019, therefore, without expressing any opinion on the merits of the case, the matter is remitted back to the authority concerned for

consideration with regard to extension of other benefits as claimed in the writ application taking into account the ratio decided in ***Ritanjali Giri @ Paul*** (supra) within a period of four months from the date of communication of this order. Needless to mention, if it is found that the petitioner is entitled to get all the benefits, as claimed in the writ application in consonance with the law laid down in ***Ritanjali Giri @ Paul*** (supra), the same shall be granted within the time stipulated.

7. The writ petition is thus disposed of.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

Ashok

(Dr. B.R. Sarangi)
Judge

