IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos. 33579, 33580, 33581, 33584, 33622, 33623, 33626, 33627, 33628, 33720 & 33726 of 2025

Dr. Labangalata Bisoi	**(WPC No.33579/2025)**
Dr. Bidyut Prabha Gantayat	**(WPC No.33580/2025)**
Dr. Puspamala Pattnaik	**(WPC No.33581/2025)**
Radhanath Mishra	**(WPC No.33584/2025)**
Dr. Rekha Devi	**(WPC No.33622/2025)**
Dr. Nandita Mishra	**(WPC No.33623/2025)**
Dr. Sudhansu Ku. Mohanty	**(WPC No.33626/2025)**
Pranita Mohanty	**(WPC No.33627/2025)**
Dr. Uma Chand Lal	**(WPC No.33628/2025)**
Dr. Rama Nath Acharya	**(WPC No.33720/2025)**
Dr. Chitra Swain	**(WPC No.33726/2025)**

…. Petitioners

Mr. Budhadeb Routray, Sr. Advocate with M/s S. Routray, S. Sekhar, J. Biswal, Charvi, S. Swain & S.B. Dash, Advocates

Versus

State of Odisha & Anr. **…. Opp. Parties**

Mr. J. Khandayat Ray, Addl. Standing Counsel

CORAM:

JUSTICE DIXIT KRISHNA SHRIPAD

ORDER

Order No. **10.12.2025**

01. All these petitions, having common factual & legal matrix, essentially lay a challenge to the decisions of OP No.1 whereby Petitioners' claim for their placement in Professor's Scale of Pay under the extant Career Advancement Scheme has been negatived.

2. Learned Senior Advocate appearing for the Petitioners vehemently argues that in the earlier round of legal battle, i.e., in WP(C) No. 36285 of 2021 and batch of matters between Dr. Dhirendra Kumar Dalai & others v. State of Odisha & others, a Co-ordinate Bench of this Court, vide judgment dated 27.11.2024, had directed OP No.1 to consider the claim for the Professor's Scale of Pay under Career Advancement Scheme (CAS), 1998 keeping in view the benefit extended to similarly circumstanced Associate Professors, vide Notification dated 30.09.2021, within a period of three months. He further submits that such a direction was issued after considering all the contentions of the parties and therefore, the impugned orders, which repeat the very same contentions of the Government that were taken up in its counter earlier, are unsustainable. He adds that all the parameters prescribed by the extant CAS are complied with by his clients and therefore the impugned orders should be reversed according benefit of Professor's pay scale on them.

3. Learned AGA appearing for the OPs vehemently opposes the petitions making submissions in justification of the impugned orders and the reasons on which they are constructed. He points out that all contentions were reserved by the learned Co-ordinate Judge while disposing of Dr. Dhirendra's case *supra* and therefore, submissions of learned Sr. Advocate appearing for the Petitioners do not merit acceptance.

4. Having heard learned counsel for the parties and having perused the petition papers, this Court declines indulgence in the matter for the following reasons:

4.1. Petitioners were the Members of Odisha Education Service (College Branch) Cadre and therefore, they were governed by the provisions of Odisha Education Service (College Branch) Recruitment Rules, 1990. These Rules did not provide for promotion to the post of Professor at all. However, promotion to the post of Professor was governed by the provisions of Odisha Education Service (Professor's Grade) Recruitment Rules, 1990. These Rules provided for promotion by selection through the Odisha Public Service Commission from among eligible Readers, if vacancies were available. They did not contemplate automatic promotion under the CAS. This aspect has been in a way treated by the impugned orders.

4.2. True it is that the benefit of CAS does not depend upon availability of vacancies in the cadre of Professors. The UGC Notification of 1998, whereby CAS was promulgated, was not internalized by the State Government Resolution dated 31.12.1999 and therefore, the CAS does not operate *proprio vigore*. Any financial benefit otherwise availing under the CAS, cannot be claimed as a matter of right, unless the same has been made a part of State Policy in terms of extant Rules that govern conditions of service of class of employees like the Petitioners. Therefore, the repeated contention, that for claiming benefit of CAS, vacancy in the cadre of Professors is irrelevant, though is true, would not enure to the benefit of Petitioners.

4.3. The Government in the impugned orders has specifically stated that these Petitioners were superannuated long before the promulgation of the Odisha Education Service (College Branch)

Recruitment Rules, 2020, which came into effect on 18.02.2021. The promotions granted to 76 Associate Professors were under these Rules and all they were in service. Those who had retired before the promulgation of these Rules, constitute a separate class that is not contemplated under these new Rules for the grant of benefit of the kind. Apparently, no challenge is laid to these Rules, either. The observation of Co-ordinate Bench at Paragraph 8.2 of the judgment that while considering petitioners' claim, the benefit granted to these persons should be kept in view, does not mean petitioners should be treated on par with them, regardless of apparent difference, i.e., the promulgation of the new Rules w.e.f. 18.02.2021 and superannuation of the Petitioners anterior to the same. Service Jurisprudence more than recognizes the pensioners as a class apart qua those who are still in service. Therefore, the reasoning of the impugned orders cannot be faltered on the grounds, such as equality & reasonableness.

4.4. The vehement reliance of learned Senior Advocate on the Government Notification dated 31.12.1999 would not come to the aid of his clients. Despite turning its pages, it is not demonstrated that this Notification internalizes Paragraph 7.1.3 of the CAS, which reads as under:

> *"A Reader with a minimum of eight years of service in that grade will be eligible to be considered for appointment as a Professor."*

The text of the above provision only speaks of eligibility to be considered for appointment as a Professor and not as to entitlement for such appointment. Eligibility is one thing and

entitlement is another. If the CAS 1998 intended entitlement, in its wisdom it would have employed the very same word. To put it metaphorically, eligibility is the starting point of the journey, whereas entitlement is the destination point.

In the above circumstances, these petitions being devoid of merits are liable to be rejected, and accordingly they are, costs having been made easy.

(Dixit Krishna Shripad)
Judge

Madhusmita

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