

(2025) 10 OHC CK 1358
In the Orissa High Court
Case No : F.A.O No. 763 Of 2019

Balakrushna Swain

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 31-10-2025

Acts Referred:

Odisha Education Act, 1969 — Section 24C

Citation : (2025) 10 OHC CK 1358

Hon'ble Judges : Dixit Krishna Shripad, J

Bench : Single Bench

Advocate : Manoj Kumar Mohanty, Pradhan, T. Pradhan, M. Mohanty, U.C. Behura

Final Decision : Allowed

Judgement

Dixit Krishna Shripad, J

1. This appeal by a Teacher working in a College at Gop in Puri district is filed under Section 24-C of the Odisha Education Act, 1969. It months from the date of seeks to assail the judgment dated 04.05.2018, whereby the State Education Tribunal at Bhubaneswar has partly negated appellant's GIA Case No.522 of 2013. In the subject GIA case, the appellant essentially had sought for a direction to the respondents to sanction the Grant-in-Aid in his favour at the rate of 1/3rd with effect from 01.06.1994 under the provisions of Grant-in-Aid Order, 1994 and to pay all arrears accruing with effect from the said date.

2. For the ease of understanding, the operative portion of the judgment is reproduced below:

"The G.I.A. application is allowed. Order under Annexure-2 releasing Block Grant w.e.f 1.2.2009 under the provision of the Grant in Aid Order, 2009 in favour of the applicant is hereby set aside. The Opposite Parties No.1 and 2 are directed to approve the appointment of the applicant as Lecturer in Odia against the 2nd post in Gop Degree College at Gop, in the district of Puri and release grant-in-aid

under Grant in Aid Order, 1994 @ 1/3rd w.e.f 1.6.2003, 2/3rd w.e.f 1.6.2005 and full salary cost w.e.f 1.6.2007 in his favour, but he is entitled to get differential arrear salary w.e.f 1st September, 2010. The fixation of the salary shall be made within four months and the arrear salary shall be paid within eight communication of this order.”

3. Learned counsel for the appellant seeks to falter the impugned judgment on these grounds:

(i) Firstly, the Tribunal grossly erred in treating appointment of the appellant to the 2nd Post of Lecturer in the +2 Institution, when it ought to have been the 1st Post in the Degree College.

(ii) Secondly, the Tribunal failed to notice the deeming clause in the GIA Order, 1994 which provides that the Degree College has to be treated as a separate entity qua +2 Institution, notwithstanding that for all practical purposes they were part & parcel of same administration & management.

(iii) Thirdly, the Tribunal was wrongly swayed away by the version of respondents who had taken a contra stand with no justification whatsoever. Counsel took the Court through various provisions of GIA Order, 1994 in support of his submission.

4. Per contra, learned AGA appearing for the opposite respondents resisted the appeal making submission in justification of the impugned judgment and the reasons on which it has been constructed. Learned AGA contended that the Tribunal, having the advantage of expertise in the matter, has made the impugned, which even otherwise is not vulnerable for challenge.

5. Having heard learned counsel for the parties and having perused the appeal papers, this Court is inclined to grant indulgence in the matter broadly agreeing with the submission made on behalf of the appellant, for the following reasons:

5.1. The College in question, having I.A. stream, was affiliated to Utkal University for the academic session 1980-81 with a sanctioned strength of 64 students. For the following academic year, i.e., 1981-82 session, the student strength was enhanced from 64 to 128. From the academic session 1990-91, the strength was further increased to 256. 'Odia' was a compulsory subject and was made available as optional one from the academic session 1990-91. As per the staff pattern dated 08.09.1983, two posts of Lecturer in 'Odia' were admissible to I.A. stream of the College, when there was no Degree programme.

5.2. The records show that the College was notified as Aided Educational Institution w.e.f. 01.06.1985. Smt. Gitabala Sarangi was appointed as Lecturer in Odia against the 1st Post with effect from the said date. The 2nd Post of Lecturer, that became admissible as per the staff pattern, was filled with Mr. Sarat Chandra Barik. Both these appointments were duly approved. The 2nd Post was admitted to Grant-in-Aid w.e.f. 01.03.1988 and grant was released in favour of Mr. Barik accordingly. The Three Year Degree Course in Arts came to be instituted in the College from the academic year 1989-90 with student strength of 128. As

already mentioned above, the College was affiliated to Utkal University.

5.3. The records reveal that there was a workload of 55 classes per week and therefore, appellant came to be appointed by the Governing Body as Lecturer in Odia w.e.f. 10.08.1989 in terms of Resolution dated 10.05.1989. Appellant joined duty from 20.08.1989. For the academic years 1991-92 and 1992-93, the workload was 85 classes per week and the same became 86 for the following academic year, i.e., 1993-94. The workload increased exponentially, i.e., 96 classes in the academic year 1994-95, 101 classes in the academic year 1995-96, 110 classes in the academic year 1997-98 & 117 classes in the academic year 1998-99. Of course, for the academic year 1996-97, as a sporadic case, the classes were reduced to 97.

5.4. When above was the position, the Degree Wing of the College came to be notified as Aided Educational Institution under the provisions of The Odisha (Non-Government Colleges, Junior Colleges and Higher Secondary Schools), Grand-in-Aid Order, 1994. The said College thus become Category-2 College w.e.f. 01.06.1994 with the concurrence of Government and recognition/affiliation of the University, as provided under clause-5(2)(A)(iii) of the 1994 Order. Therefore, learned counsel for the appellant is right in telling the Court that his client was holding lien to the 1st Post in the Degree College, by virtue of legal fiction that separated the said College from the +2 Wing of the Institution. In fact, the Principal of the College, vide letter no.807 dated 23.11.2017, had clarified the position to the respondents. This aspect of the matter, somehow, has been lost sight of by the Tribunal and therefore, the impugned judgment is flawed.

5.5. The Director of Higher Education, vide order no.37935 dated 01.10.2010, had sanctioned & released the Block Grant in favour of the appellant with retrospective effect from 01.02.2009 under the provisions of the Odisha (Aided Junior Colleges and Aided Higher Secondary Schools) GIA Order, 2009, as is evidenced by Annexure-4. In view of the material borne out by record, the Grant-in-Aid ought to have been sanctioned w.e.f. 01.06.1994 under the provisions of Grant-in-Aid Order, 1994. Counsel for the appellant is justified in complaining that the Tribunal has grossly erred in denying the said benefit to his client and therefore, the impugned judgment is liable to be struck down. By what logic the Tribunal treated the appointment of the appellant was to the 2nd Post of Lecturer in Odia, remains enigmatic. The 1st Post was occupied by Smt. Sarangi and the 2nd was filled with Mr. Barik. Going by the logic of Tribunal, the appellant has to be held to have been appointed to the 3rd Post, but not 2nd at all. Even this cannot be done because the fiction of law comes to the aid of appellant, which deems his appointment to the 1st Post in the Degree College, which needs to be treated as a separate entity qua the +2 College. This gains support from the text of the provisions of 1994 Order, vide Second Note to paragraph- 5, which reads as under:

"An educational institution conducting B.A., B.Sc. or B.Com. degree courses and Junior College or Higher Secondary Course shall, for the purpose of this para, be

treated as two separate institutions.”

It is so, because there is no much dispute that the Degree College in question falls under Category-II and therefore, after five years of its functioning with recognition from Government coupled with affiliation from University becomes eligible to be notified as an Aided Educational Institution, vide paragraph-5(2)(A) (i), to which the above Note is appended.

In the above circumstances, this appeal succeeds; Appellant’s GIA case having been favoured, the impugned judgment is modified fixing 01.06.1994 as the reckoning date for sanctioning & releasing the Grant-in-Aid in favour of appellant under the provisions of Grant-in-Aid Order, 1994 as against the 1st Post of Lecturer in the Degree Wing of College and grant all consequential entitlement with retrospective effect, which would include arrears as well.

The above exercise has to be accomplished within an outer limit of two months, failing which the delay shall carry interest @ 1% per mensem, not from this day but with effect from the date the appellant was entitled to, for the first time. The interest component may be recovered from the erring officials in accordance with law.

Now, no costs.

Web copy of this judgment to be acted upon by all concerned.