

(2022) 03 OHC CK 0160
In the Orissa High Court
Case No : Writ Petition (C) No. 39949 Of 2021

Bijayalaxmi Dash

APPELLANT

Vs

State Of Odisha And Ors

RESPONDENT

Date of Decision : 25-03-2022

Acts Referred:

Staff of Aided Educational Institutions) Rules, 1974 — Rule 16(2)

Citation : (2022) 03 OHC CK 0160

Hon'ble Judges : S. K. Panigrahi, J

Bench : Single Bench

Advocate : Rudra Narayan Parija, Biswajit Mohanty

Judgement

S.K. Panigrahi, J

1. This matter is taken up through hybrid arrangement.

2. Heard.

3. The present writ petitioner challenges the office order No.7317 dated 07.12.2020 passed by the opposite party No.3- District Education Officer, Jajpur rejecting her prayer for trained scale of pay on attaining the age of 48 years.

4. Learned counsel for the petitioner submits that the petitioner joined as an untrained Classical Teacher in Haridaspur Kanchia High School, in the district of Jajpur on 01.08.1990. The said school is eligible to receive grant-in-aid with effect from 01.01.2004 as per the Grant-in-Aid Order, 2004. However, the petitioner has not been absorbed as a Trained Graduate Teacher in the said school, despite of the provisions contained under Rule-16(2) of the Odisha Education (Recruitment and Conditions of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974 (hereinafter referred to as "the Rules" for brevity). Rule-16(2) of the said Rules reads as follows:

"16. Probation and confirmation- xx xx xx xx xx

(2) No teacher who has not undergone the training prescribed for the post shall hold the post substantively:

Provided that an untrained teacher having not less than ten years service shall undergo condensed inservice training provided by the Government and after successful completion of such training shall be eligible for confirmation and shall be entitled to draw salary of a trained teacher:

Provided further that a teacher attaining the age of 48 years shall be exempted from undergoing the training and shall be entitled to financial benefits of a trained teacher.

Xx xx xx xx xx”.

He further submits that though the aforesaid provisions of the Rules are clearly in favour of the petitioner, still she has not been sanctioned the trained graduate scale of pay, despite filing of several representations before the authority.

5. In view of such facts, notice needs to be issued to the opposite parties.

6. Hence, issue notice to the opposite parties.

7. Mr. Biswajit Mohanty, learned Standing Counsel for the Department of School and Mass Education waives of notice on behalf of the opposite parties. Required number of copies of the writ petition be served on him within three working days hence, who shall obtain instructions in the matter.

8. List this matter on 5th of April, 2022 along with W.P.(C) No.4311 of 2022.

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