
(2022) 10 OHC CK 0096

In the Orissa High Court

Case No : Writ Petition Civil (OAC) No.2389 Of 2013

Brahmananda Naik

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 19-10-2022

Acts Referred:

Citation : (2022) 10 OHC CK 0096

Hon'ble Judges : M.S. Raman, J

Bench : Single Bench

Advocate : Nilambar Jena

Final Decision : Disposed Of

Judgement

M.S. Raman, J

1. The Original Application No. 2389(C) of 2013 was filed before the Odisha Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OAC) No. 2389 of 2013.

2. The petitioner, an Assistant Teacher of Biswanathpur Project Upper Primary (PUP) School in the District of Angul sought to challenge the order dated 12th July, 2013 issued by District Education Officer, Angul which relates to transfer of teachers.

3. The learned Odisha Administrative Tribunal while issuing notice passed the following order on 26th July, 2013:

"The applicant, who is present working as Asst. Teacher in Biswanathpur Project U.P. School under the control of the D.I. of Schools, Talcher in the district of Angul has filed this O.A. with a prayer to quash the transfer order dated 12.07.2013 (Annexure-2) so far as it relates to the applicant and for a direction to the respondent no.2 to recall/cancel the order of approval for transfer issued in respect of the applicant.

Heard Mr. A. K. Behera, learned counsel for the applicant and Mr. S. K. Samal, learned standing counsel, S & ME.

Mr. Behera, learned counsel for the applicant submits that presently the applicant is continuing as primary school teacher in Biswanathpur Project U. P. School. He has been transferred to Sakosingha P.U.P. School vide impugned order dated 12.07.2013 (Annexure-

2). The order of transfer has been issued by the District Education Officer/ Inspector of Schools, Angul. So far as the applicant is concerned, his appointing, disciplinary so also transferring authority is the District Inspector of Schools of the concerned education district. In that view of the matter, the very order of transfer under Annexure-2 cannot be given effect to since such order has not been issued by the competent authority who must be the appointing authority of the applicant. Hence, the order of transfer dated 12.07.2013 in respect of the applicant is liable to be quashed.

Mr. Samal, learned standing counsel submits that as per decision of the District Level Transfer Committee and by order of the Collector-Cum-District Magistrate, the present transfer order has been issued by the District Education Officer/ Inspector of Schools, Angul. In that view of the matter, there is no illegality or irregularity in the transfer order dated 12.07.2013 (Annexure-2) issued by the District Education Officer, Angul.

Considering the submissions made by the learned counsel for both the parties and keeping in view the fact that the order of transfer of the applicant has been issued by the District Education Officer, Angul who is not the appointing and transferring authority of the applicant, we are of considered view, this transfer order should have been issued by the District Inspector of Schools, who is the competent authority but not by the District Education Officer/Inspector of Schools, Angul.

In view of the above, issue notice on the question of admission specifically indicating that the matter is likely to be disposed of at the stage of admission.

Counter be filed within six weeks and rejoinder, if any, be filed within two weeks thereafter.

Put up this matter after eight weeks.

So far as the interim prayer is concerned, the order dated 12.7.2013 (Annexure-2) in respect of the applicant, shall not be given effect to till filing of the counter. Since the appointing authority of the applicant has not issued the transfer order, the applicant shall be allowed to continue in his present place of posting i.e. Biswanathpur Project U.P. School.

Copy of this order along with copy of paper book be sent to all the respondents."

4. In view of such order, by efflux of time, the petition has been rendered infructuous. Therefore, the Writ Petition stands disposed of as infructuous...

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