

(2022) 03 OHC CK 0159
In the Orissa High Court
Case No : Writ Petition (C) No. 4003 Of 2022

Gopal Chandra Baral

APPELLANT

Vs

State Of Odisha And Ors

RESPONDENT

Date of Decision : 25-03-2022

Acts Referred:

Citation : (2022) 03 OHC CK 0159

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

Bench : Single Bench

Advocate : Anup Kumar Senapati, Suman Pattanayak

Judgement

S.K. Panigrahi, J

1. This matter is taken up through hybrid arrangement.

2. Heard.

3. The petitioner has filed this writ petition challenging the order dated 04.02.2021 passed by the opposite party No.1-Commissioner-cum- Secretary, Higher Education Department, Odisha, Bhubaneswar rejecting his claim for grant of service benefits including allotment of GPF number. The said order dated 04.02.2021 is quoted hereunder:

"Whereas, the petitioner, Shri Gopal Chandra Baral, non-teaching employee of Nimapara Degree College, Nimapara, At/P.O: Nimapara, Dist-Puri had filed the writ petition bearing W.P.(C) No. 18907/2020 seeking direction to the opposite parties to allow the petitioner to avail the leave benefits under the Orissa Education (Leave of Teachers and other Members of the Staff of Aided Educational Institutions) Rules, 1977, retiral and pensionary benefit under the Orissa Aided Educational Institutions' Employees Retirement Benefit Rules, 1981 and GPF benefit under the Orissa Aided Educational Institutions Employees' General Provident Funds Rules, 1983, as an employee of an aided educational institution.

Whereas, the Hon'ble High Court was pleased to dispose of the said writ petition by their Order No. 02 .dated 26.08.2020 with the following observation."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 petitioners are 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."

Xx xx xx xx xx xx xx"

4. In view of the aforesaid order passed by this Court, the petitioner approached to the Department of Higher Education and the said Department vide order dated 04.02.2021 passed the following:

"For compliance of the aforesaid direction of the Hon'ble High Court, the matter has been examined and it is found that rules which are applicable to employees of aided colleges covered under 1994 Grant-in-Aid Order (i.e. employees who constitute a common cadre) are ipso facto not applicable to employees of aided colleges covered under subsequent Grant-in-Aid orders, unless there is a State Government notification to that effect. Further, in the meantime, the letter No. 16029/SME dated 01.08.2019 on extension of the benefit of Rehabilitation Assistance to the deceased employees working in fully aided/ Block Grant / GIA (New) has been withdrawn by the State Government vide Office Order No. 12563/ SME dated 09.09.2020 of School and Mass Education Department. Therefore, the petitioner, Shri Gopal Chandra Baral, is not entitled for availing the benefit of R.A. Scheme.

In view of the above, the claim of the petitioner in the present writ petition merits no consideration and is, therefore, rejected. All concerned be intimated accordingly."

5. In view of such facts, the matter is required to be examined.

6. Hence, issue notice to the opposite parties.

7. Ms. Suman Pattanayak, learned Additional Government Advocate for the State waives of notice on behalf of opposite parties. Required number of copies of the brief be served on her within three working days, who shall obtain instructions in the matter.

8. List this matter on 30th of March, 2022 along with W.P.(C)No.3805 of 2022.

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