

(2024) 02 OHC CK 0122

In the Orissa High Court

Case No : Writ Petition (C) No. 24783 Of 2012

Goura Mohan Biswal & Others Vs State Of Odisha & Others ?

Date of Decision : 13-02-2024

Acts Referred:

Citation : (2024) 02 OHC CK 0122

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

Bench : Single Bench

Advocate : Shakti Sekhar, Sachidananda Nayak

Final Decision : Disposed Of

Judgement

M. S. Raman, J

1. This matter is taken up through hybrid mode.

2. Heard learned counsel for the parties.

3. Challenging the office order No.45696-6C-649-12-VI dated 19.11.2012 issued by the Director of Higher Education, Odisha, Bhubaneswar, rejecting the claim of the Petitioners mentioning that the higher scale of pay (Rs.1200-2040/-) as allowed to Ajay Kumar Shee pursuant to letter No.15290 dated 09.04.2008 cannot be granted, the present writ petition has been filed before this Court with the following prayer(s):-

"xxx xxx xxx

iii) Issue Rule Nisi calling upon the opposite parties to show cause as to why the impugned order dated 19.11.2012 passed by the Director, Higher Education under Annexure-7 shall not be quashed.

iv) If the opposite parties fail to show cause or show insufficient cause issue a writ in the nature of certiorari or any other writ/writs quashing the impugned order dated 19.11.2012 passed by the Director, Higher Education under Annexure-7 shall not be quashed.

iv) If the Opposite parties fail to show cause or show insufficient cause issue a

writ in the nature of certiorari or any other writ/writs quashing the impugned order dated 19.11.2012 passed by the Director, Higher Education under Annexure-7.

v) Issue a writ in the nature of mandamus or any other writ/writs direction/directions directing the opposite parties to fix up the pay and release the differential salary under the ORSP Rules, 1989 in the scale of Rs.1200- 2040/- from 01.05.1989 and under ORSP Rules, 1998 in the scale of pay Rs.4000-6000/- from 01.01.1996 and under ORSP Rules, 2008 in the scale of pay Rs.5200-20,000/- from 01.01.2006 and other consequential benefit as well as the arrears be paid to the petitioners within a stipulated period fixed by this Hon'ble Court.

VI) And/or pass any other order/orders, direction/directions as this Hon'ble Court deems fit and proper for the ends of justice."

4. Perusal of order dated 19.11.2012 of the Directorate of Higher Education, the following fact is apparent:-

" xxx xxx xxx

The same claim as also been made by the present petitioners in the earlier case filed by them in W.P. (c) No.6839/06 and in compliance to judgment pronounced in the above case, their claim has already been rejected vide Director, Higher Education , Odisha Order No. 38731, dt. 17.11.09 as they have not acquired B.Sc. qualification. Further, the higher scale of (Rs.1200-

2400/-) allowed to late Ajay Kumar Shee was in consonance with order passed by the Hon'ble High Court in W.P.(C) No. 2860/03 which cannot be applicable to all other cases. In the meantime Government have also turned down the proposal submitted in favour of the petitioners for fixation of their pay a claimed in the present writ petition vide G.P. No. 4193/HE, dated 21.2.2012 and communicated to concerned Principal Vide Memo No. 4194/HE, dated 21.2.2012 on the ground that the relevant Rules does not permit the benefit claims by the applicant.

In the above premises, the claim of the petitioners for fixation of their pay in the scale of pay Rs.1200-2040/- under ORSP Rules, 1989 is rejected."

5. Mr. Shakti Sekhar, learned counsel appearing for the Petitioners submits that since the case of Ajay Kumar Shee was considered pursuant to direction of this Court in W.P. (C) No.2860 of 2003, similar benefit could not have been denied to all such other identically circumstanced persons. He further submits that he has filed Misc. Case No.23754 of 2013 before this Court enclosing therewith letter No.48197-6C-649-VI-2012 dated 24.10.2013 issued by Deputy Director, (NGC-I), Directorate of Higher Education, Odisha, Bhubaneswar recommending the case of the Petitioners to the Govt. Department of Higher Education which is subsequent to filing of present writ petition. He also submitted that the said recommendation is pending consideration.

6. Mr. S.N. Nayak, learned Additional Standing Counsel submitted that direction may be issued to Opposite Party No.1 to consider the said recommendation contained in letter dated 24.10.2013 of the Directorate of Higher Education.

7. Considering the submissions and perusal of record, it is felt expedient to direct Opposite Party No.1, namely, Commissioner-cum-Secretary, Higher Education Department to consider the grievance of the Petitioners as stated above and also consider the recommendation submitted by the Deputy Director, Higher Education within a period of three months from the date of production of certified copy of this order. Decision taken thereof be communicated to the Petitioner.

8. With the aforesaid observation and direction, the writ petition stands disposed of.

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