

(2000) 08 OHC CK 0040

In the Orissa High Court

Case No : Original Jurisdiction Case No. 12668 of 1999

Jyostna Mayee Behera

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 29-08-2000

Acts Referred:

Citation : (2000) 2 OLR 544

Hon'ble Judges : L. Mohapatra, J

Bench : Single Bench

Advocate : P.C. Das and R.C. Das, for the Appellant; A. Routray, Additional Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

L. Mahapatra, J

1. The petitioner in this writ application prays for granting her the benefit of time bound advancement scale of pay as sanctioned by the Government pursuant to Government Memorandum dated 19.12.1985 on the ground that other teachers similarly placed have already been given the benefit. The case of the petitioner is that she is also entitled to the claim as the same has been extended to teachers in Hindi, Sanskrit and other vocational subjects who have completed fifteen years of service.

2. The petitioner was appointed as a Hindi Teacher in Charampa Girls' High School on 23.1.1978 and the said appointment was approved on 20.3.1978. She was appointed against the post of Trained Hindi Teacher. But as she had not passed B.A. and had only completed Kobid in Hindi, she was allowed the Intermediate scale of pay. Subsequently after passing B.A., she was treated as a Hindi Trained Teachers with effect from 1.5.1989. She having completed fifteen years for service, is entitled to the benefit of the decision of the Government dated 19.12.1985, wherein it is provided that an employee who is holding the same post of Hindi Teacher or same grade for fifteen years is to be considered

eligible for advancement scale of pay. The Director of Elementary Education in his letter dated 17.1.1991 clarified that grade or post means post of primary school teacher irrespective of whether the same is changed from time to time. The further case of the petitioner is that this Court at an earlier point of time has already decided that the status of an Assistant Teacher does not change merely because two different scales of pay had been sanctioned as against the same post before completion of fifteen years of service and therefore, she is entitled to the advancement scale of pay.

3. Counter affidavit has been filed by opposite party No.3 in which it is stated that the petitioner was first appointed as a Hindi Teacher on 31.1.1978 and she was untrained at that point of time. Then the school was unaided and came to the fold of grant-in-aid with effect from 1.3.1980. The petitioner's appointment was approved in the untrained scale of pay from the date of receipt of minimum grant-in-aid, that is, 1.3.1980. The petitioner became trained on 11.11.1983 and was allowed I.Sc. Kovid Hindi Trained scale of pay from 11.11.1983. Thereafter she passed B.A. on 31.8.1987 and was allowed B.A. Kovid Hindi Trained scale of pay with effect from 31.8.1987. The petitioner having enjoyed different scales of pay according to her qualifications from time to time, has not completed fifteen years of service in one post with same scale of pay and therefore, is not entitled to time bound advancement scale of pay. The scheme of time bound advancement scale of pay was introduced to relieve the employees from stagnation to them who are continuing in one post with one scale of pay for more than fifteen years. The petitioner having availed two higher scales, she cannot be treated as a victim of stagnation in one scale of pay and therefore, is not entitled to the relief claimed.

4. The learned counsel for petitioner has drawn the attention of this Court to the judgment delivered in OJC No. 17 of 1999, disposed of on 6.12.1999 (Jagannath Bharati State of Orissa and Ors.). In the said judgment reliance has been placed on earlier decisions of the this Court in OJC No. 115 of 1992, disposed of on 5.5.1994 and OJC No. 1006 of 1995, disposed of on 5.2.1997, where it was held that fifteen years of service has to be counted from the date of appointment for the purpose of granting benefit of advancement scale of pay. It was further held that the benefit is intended to be given irrespective of any other benefit that could have been made available to a teacher on his acquiring higher educational qualification. Emphasis on the words "grade or post" was given and not on the scale of pay which an employee got. This Court further held that the scale of pay may undergo changes during tenure of service of an employee owing to revision of pay from time to time or on the employee's acquiring higher academic qualification. The memorandum only indicates about an employee who has held the same post or grade for fifteen years to be considered for advancement scale of pay.

5. Here is a case where though the petitioner has got different scales of pay depending on the qualifications she acquired, she was holding the same post or

grade and, therefore, is entitled to the advantage under the scheme. Following the decision of this Court in OJC No. 17 of 1999, I allow the writ application and direct the opposite parties to grant the benefit of advancement scale of pay to the petitioner with effect from the date she completed fifteen years of service and fix her pay accordingly and pay the arrears within a period of six months from the date of communication of this order. Requisites for communication shall be filed within three days.