
(2003) 01 OHC CK 0049
In the Orissa High Court
Case No : O.J.C. No. 7716 of 1995

Narayan Chandra Mishra

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 29-01-2003

Acts Referred:

Orissa Education (Recruitment and Conditions of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974 — Rule 2(2), 9

Citation : (2003) 95 CLT 435

Hon'ble Judges : P.K. Mohanty, J; L. Mohapatra, J

Bench : Division Bench

Advocate : J.R. Dash and K.L. Dash, for the Appellant; R. Behera, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Mohanty, J.—Heard Mr. J. R. Dash, learned counsel for the petitioner and Mr. Rangadhar Behera, learned Standing Counsel for School and Mass Education Department.

2. The short facts of the petitioner's case is that after retiring from Government service, he was appointed as a Senior Classical teacher in Bhakta Madhu Vidyapitha on 23.7.1973. The said school is an aided educational institution in terms of the Orissa Education Act. The grievance of the petitioner is that while he was working as such according to the Government Circular the scale of pay of teachers in aided educational institution was revised with effect from June, 1976. The petitioner and other similarly situated persons, therefore, were entitled to get the salary at the scale of Rs. 370-570/-, but the petitioner was granted a fictitious scale of pay of Rs. 270/-. According to the learned counsel in view of the Orissa Revised Scale of Pay Rules, 1974 as well as the 1981 Rules, the petitioner was entitled to the salary prescribed, but he has been illegally denied such benefits of higher salary.

3. The opp. parties 1 to 3 have filed a counter affidavit denying the claim made

by the petitioner. It is the specific stand of the State Government that the petitioner is not entitled to get the revised scale of pay since the persons re-employed after retirement are not entitled to get the revised scale of pay in terms of the Rule itself. However, the learned counsel for the petitioner submits that in terms of the Revised Scale of Pay Rules, a person re-employed in Government service after retirement, is not entitled to the benefit of the Revised Pay Scale, but since the petitioner was appointed in an aided educational institution the said rule is not applicable. The contention of the learned counsel is to be rejected.

4. The teachers like the petitioner working in the aided educational institution are entitled to the same salary and emoluments as are available to their counterparts in Government service in accordance with Rule 9 of the Orissa Education (Recruitment and Conditions of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974. In view of the specific provision contained in Rule 2(2)(ii), the Orissa Revised Scale of Pay Rules, 1974 and 1981 has no application to a person re-employed in Government after retirement. A teacher working in a Government School on re-employment after his retirement therefore, is not entitled to a revision of pay in terms of the aforesaid rules. The petitioner undisputedly had been re-employed as a teacher in Bhakta Madhu Vidyapitha, an aided educational institution after his retirement from Government Service and therefore, is not entitled to revision of pay. What an employee like the petitioner in an aided educational institution entitled to, is the same pay as that of his counterpart in a Government school in terms of Rule 9 of the Orissa Education (Recruitment and Condition of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rule, 1974. But if no such revision of pay is applicable to such a teacher in Government Service, the petitioner legitimately cannot claim a revision of his salary in terms of the Orissa Revised Scale of Pay Rules.

In that view of the matter, the writ petition is devoid of any merit and accordingly dismissed. However, there shall be no order as to cost.

L. Mohapatra, J.

5. I agree.