

(2023) 02 OHC CK 0173

In the Orissa High Court

Case No : Writ Petition Civil (OAC) No.2346 Of 2015

Pradip Jena & Others

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 24-02-2023

Acts Referred:

Citation : (2023) 02 OHC CK 0173

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

Bench : Single Bench

Advocate : Sidheswar Mallik, Bismaya Ananda Prusty,

Judgement

M.S. Raman, J

1. Seventeen Petitioners have approached the Odisha Administrative Tribunal way back in the year 2015 praying therein to quash Annexure-3, i.e., Letter No.5M-13-X-14/8313, dated 2nd June, 2015 issued by the Directorate of Elementary Education, Bhubaneswar.

2. Mr. Sidheswar Mallik, learned counsel for the Petitioner submitted that by virtue of said letter, it is sought to be clarified that as per Finance Department Office Memorandum dated 29th January, 2002 "eligibility for financial up-gradation for TBA/ACP/RACP in case of primary school teachers was required to be considered from the date of getting higher scale of pay for being acquiring higher qualification/training like C.T./B.Ed. etc. in same post/grade but not from the date of their initial appointment". This clarification is directly hit by Resolution bearing No.3560/F/PCC(A)-49/2012 dated 6th February, 2013 issued by the Government of Odisha in Finance Department. Learned counsel for the Petitioner has pointed out that in the said resolution, it is stated as follows:-

"There shall be three financial up-gradation under the RACPS, counted from the direct entry grade on completion of 10, 20 and 30 years of service in a single cadre in absence of promotion. An employee if completed 10 years of service in the entry grade will be considered for 1st up-gradation under RACPS. An

employee completing 20 years of service and has got only one up gradation either by promotion or by RACPS will be considered for the 2nd up gradation. Similarly, an employee completing 30 years of service and has got two up gradation either by RACPS or promotion or both will be considered for 3rd up gradation under RACPS.”

3. He further submitted that the Petitioners have continued as primary school teachers in the same grade for more than 20 years and cited Co-ordinate Bench decision of this Court rendered in the case of Anadi Charan Nayak v. State of Odisha, WPC(TAC) No.84 of 2015 vide Order dated 11.01.2023. With reference to Order dated 13th September, 2006 passed in a batch of Original Applications being O.A. No.359(C) of 2002, etc. he also submitted that the said Tribunal has followed a decision of this Court vide Order dated 5th May, 1994 rendered in OJC No.115 of 1992 (Batakrushna Sahu v. Govt. of Odisha). It is submitted that the case of the Petitioners is similar to those cases, as such the present writ petition is bound to be allowed.

4. Heard Mr. Bismaya Anand Prusty, learned Standing Counsel for School and Mass Education.

5. Considering the submissions made, the writ petition is disposed of in the same terms as has been observed in Anadi Charan Nayak (supra).

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