

(2022) 03 OHC CK 0191
In the Orissa High Court
Case No : O.J.C. No. 16071 Of 2001

Pravat Kumar Samal

APPELLANT

Vs

State Of Orissa And Others

RESPONDENT

Date of Decision : 30-03-2022

Acts Referred:

Citation : (2022) 03 OHC CK 0191

Hon'ble Judges : Dr. S. Muralidhar, CJ; R. K. Pattanaik, J

Bench : Division Bench

Advocate : Surya Narayan Pattnaik, P.K. Muduli

Final Decision : Dismissed

Judgement

I.A. No.30 of 2021

1. For the reasons stated therein, this application for substitution is allowed. The IA is accordingly disposed of.

2. The legal representatives of the Petitioner as indicated in the application are brought on record.

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3. The challenge in the present petition is to an order dated 28th September 2001, passed by the Orissa Administrative Tribunal (OAT), disposing of the Petitioner's OA No.2183 of 2000 and declining his prayer that between the period of his being relieved by his borrowing department i.e., the Orissa Construction Corporation Limited (OCC) and rejoining his parent department i.e., the Director of Economics and Statistics (DES) (Opposite Party No.2), he should be paid the salary. Incidentally, this is a petition filed in 2001. The Petitioner is stated to have expired. Now, he is represented by his LRs.

4. The petition before the OAT was the third round of litigation, concerning the Petitioner's deputation to the OCC. Aggrieved by he was being sent further on

deputation from the OCC to the District Rural Development Agency (DRDA), the Petitioner had approached the OAT, which by an order dated 18th January 1999, allowed the petition and directed that the Petitioner be reverted to his parent cadre. Incidentally, there was no stay of the orders passed sending the Petitioner on deputation to the DRDA. There was an observation in the order dated 18th January, 1999 by the OAT that the Government will post the Petitioner in any suitable post in the parent department within 15 days. Aggrieved by that order not being complied with, the Petitioner filed M.P. No.310 of 1999 in the OAT. That application was disposed of by the OAT on 24th November 1999, reiterating that the Petitioner should be posted in any suitable post in the parent department within 15 days.

5. Pursuant thereto on 4th December 1999, an order was passed by the DES posting the Petitioner at the Headquarters of the DES with effect from the date of his joining. Apparently, the Petitioner did not immediately join. He was insisting on a relieving order from the OCC. The Petitioner, ultimately, joined back to the parent department on 29th April, 2003 only pursuant to an order dated 17th April 2003, passed by this Court in the present matter. In effect, therefore, despite being reverted on 4th December, 1999 itself for over three and half years thereafter, the Petitioner did not join back in the parent department.

6. The OAT has taken the view in the impugned order that there was no requirement for the OCC to pass any separate relieving order once the DES had issues a posting order. Therefore the demand of the Petitioner that he should be paid salary for the differential period i.e. the period when he was reverted pursuant to the order dated 24th November, 1999 of the OAT and till the date of his joining was found not tenable in law.

7. Having heard learned counsel for the parties, the Court is of the view that the OAT has not committed any error whatsoever. In the present case, there was no justification for the Petitioner to insist that there must be a corresponding relieving order of the OCC, once an order was passed by the DES on 4th December 1999, posting the Petitioner to the Headquarters. On the principle of no work no pay, the plea of the Petitioner that he should be paid salary for the period till he joined back in his parent cadre, cannot be justified.

8. There is no merit in the present petition, and it is dismissed as such.

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