
(2009) 12 OHC CK 0058
In the Orissa High Court

Sanjukta Sahu

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 22-12-2009

Acts Referred:

Citation : (2010) 109 CLT 469 : (2010) 1 OLR 163 Supp

Hon'ble Judges : Sanju Panda, J

Bench : Single Bench

Judgement

Sanju Panda, J.—In this writ application, challenge has been made to the Order Dated 12.1.2006 passed by the Under Secretary to Government of Orissa, Women & Child Development Department & the letter 20.1.2006 issued by the Project Manager (U), World Bank Unit, Department of Women & Child Development, Government of India fixing the honorarium at a lower rate.

2. The facts as narrated in the writ application are as follows:

The Petitioner being a Post-Graduate joined as an Instructor on 20.1.1993 in the Anganwadi Training Centre (AWTC) under the Integrated Child Development Services Scheme (ICDS) run by Utkal Nava Jeevan Mandal, Angul, a voluntary organization registered under the Societies Registration Act. While continuing as such, on the resignation of the then Principal on 31.8.1998, she officiated as such from 1.9.1998 being the Senior Instructor of the said institution. After considering her representation the Project Manager, World Bank confirmed her in the post of Principal with effect from 1.7.2000. The said order was communicated to the Petitioner on 20.3.2001. The aforesaid Scheme is a Central Government sponsored Scheme implemented through the State Government. The Central Government issued directions from time to time for its effective implementation & also fixing the remuneration of training staff & others by way of annual budget on honorarium basis. It gets cent per cent financial assistance for recurring & non-recurring expenditure from the Centre & the State Government only provides funds under the minimum needs programme for supplementary nutrition. The Central Government vide letter dated 19.5.1999 intimated the

State Government regarding revised honorarium which was to be paid to the beneficiary of AWTC by introducing World Bank assisted ICDS Training Programme Project UDISHA.

3. The Learned Counsel for the Petitioner submitted that as per the said norms enumerated in the project UDISHA, the Petitioner was entitled to get honorarium as revised with effect from 1.4.1999, i.e., at the rate of Rs. 4789 till 30.6.2000 as Instructors having more than five years service, at the rate of Rs. 5970 from 1.7.2000 till 20.1.2003 as Principal having more than 5 years service & at the rate of Rs. 7544 from 21.1.2003 till today as Principal having more than 10 years uninterrupted service. Since at that time she had completed 5 years 7 months & 10 days of her service, i.e., 20.1.1993 to 1.9.1998, she was posted as Principal from 1.9.1998 & as such she was entitled to get higher rate of honorarium prescribed for the post of Principal & not the honorarium of the Instructor. However, the Petitioner received the honorarium at the rate of Rs. 4400 with objection & she sent her objection letter to the appointing authority. The appointing authority also recommended the Petitioner's case to get honorarium as Principal with higher scale vide letter dated 11.11.2004. But the State Government on 13.1.2005 issued a letter fixing the honorarium of the Petitioner at the rate of Rs. 4400 per month with effect from 1.7.2000 without considering the norms & conditions stipulated in the Project UDISHA. Therefore, the Petitioner filed W.P.(C) No. 1732 of 2005 before this Court. On 28.3.2005, this Court directed the Opp. Party No. 2 therein to dispose of the representation of the Petitioner within a stipulated period. Again, on 7.11.2005 the said order was modified by giving an opportunity to the Petitioner to file a fresh representation. Accordingly, the Petitioner filed fresh representation stating her all grievances & entitlement to the honorarium as per the Scheme. However, the authorities passed the impugned orders as stated above.

4. Opp. Party No. 1 filed its counter taking the following stand:

- i) Graded honorarium Rs. 4789 from 1.4.1999 to 30.6.2000 as an instructress on completion of 5 years service in the cadre of instructress but not as Principal as she became the Principal officially w.e.f. 1.7.2000.
- ii) The Petitioner's claim for honorarium @ Rs. 5970 from 1.7.2000 to 20.1.2003 is not justified as she has joined as Principal on 1.7.2000 & Rs. 5970 is the rate of graded honorarium of Principal on completion of 5 years of service as Principal.
- iii) The claim for honorarium of Rs. 7544 from 21.1.2003 till today does not have any merit as the rate of Rs. 7544 is the graded honorarium of a Principal on completion of 10 years of service. The Petitioner completed only 2 years 6 months & 20 days of service as Principal as on 21.1.2003.

Further, Opp. Party No. 1 admitted that the guideline for implementation of Project UDISHA issued by the Government of India on 19.5.1999 is quite clear that previous experience in the post should be counted while fixing the honorarium in the said particular post. But it is nowhere mentioned that the rate

of honorarium in the particular post should be fixed taking into account the previous period of service in the lower grade. The Government of India indicated that only graded honorarium is applicable on completion of 5 years & 10 years service in the particular post. In the present case, the Petitioner was confirmed as Principal only with effect from 1.7.2000 & as such she completed 5 years of service as Principal on 30.6.2005 & is getting the honorarium of Rs. 5970.

5. From the above rival contentions of the parties, it is to be determined whether the Petitioner is entitled to the higher rate of honorarium prescribed for the post of Principal as she has been continuing in service for more than ten years from the date of her joining as an Instructor in the year 1993 or from the date of taking charge of the post of Principal of the Institution on 1.9.1998 & her confirmation in the said post is with effect from 1.7.2000. Admittedly, there are no rules governing the field. The facts narrated above reveals that the post in question is not a permanent post & is only based on the guidelines issued by the Ministry of Human Resource Development, Department of Women & Child Development, Government of India under the ICDS Scheme. The World Bank assisted ICDS Training Programme to develop all the functionaries of ICDS into agents of social change in order to develop the ICDS Training Programme into a dynamic, responsive, comprehensive training-cum-human resource development programme which is flexible, innovative & capable of achieving the objectives of the ICDS Scheme.

6. The said Scheme formulated the ICDS Training Programme under the Project UDISHA which envisages upward revision of financial norms, integration & coordination of training of ICDS functionaries & revision of training syllabus & the existing UNICEF financial & technical collaboration for the Programme will also continue. As per the said Scheme the Government of India on 19th of May, 1999 issued revised administrative approval guidelines for implementation "regarding the ICDS training programme & financial norms enhancing the honorarium for the Instructors & staffs of the AWTC. The relevant portion of the letter is quoted under:

XXX XXX XXX

(3) The personnel component of the AWTCs & the qualifications prescribed instructors will be the same as already provided under ICDS Training Programme. Under the revised financial norms for AWTCs, additional funds have been provided for honorarium of staff which includes provision for guest speakers/visiting faculty. This also includes provision for a visiting Doctor & engagement of Craft Teacher, Music Teacher, Cook, Sweeper, etc. on part-time basis. This is only a suggested list, the AWTCs will have to provide the staff according to their work requirements subject to financial limit. The rates of honorarium for staff of AWTCs have been revised as under:

SI.No. Name of No. of Graded Honoraria (Rs. per month) On completion the

Post	Posts	On initial	On completion of 5	of 10	years of appointment	years of service
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						1.
For AWTCs	Principal	1	4400	5970	7544	2. Instructors
						2
						3600
						4789
						5980
3. Accounts Clerk	1	2540	3301	4065	4. Peon/Chowkidar	2
						2050
						2274
						2500
5. Warden	1	750	750	750		

Note; The increase in honoraria on completion of five/ten year period will be on the basis of performance.

7. The above instruction reveals that the honorarium was fixed for the post of Instructor & as such the Petitioner, as an Instructor, was getting the honorarium at the rate fixed on completion of five years of service in the said post. The next increment of honorarium in one post after completion of 5 years of satisfactory service was prescribed to avoid stagnation of pay in one post & the same was incidental to the service. Since she received higher pay scale as an Instructor on the date of taking charge of the post of Principal, the said honorarium was also given to her at the higher rate & she was not receiving the honorarium fixed for the post of Principal on initial appointment, i.e., Rs. 4400. Therefore, by no stretch of imagination it can be said that she was appointed to the post of Principal afresh. Since the Petitioner received the honorarium at a higher rate as Principal she is entitled to the next higher honorarium on completion of five years of her service in the post of Principal. The honorarium is fixed with the post & the same is not to be equated with the pay scale of a permanent post or cadre. Therefore, the fixation of her honorarium by the authorities at the rate of Rs. 5970 in the post of Principal with effect from 1.7.2005 as per the said, guidelines has rightly been made because the enhanced rate of honorarium were applicable on completion of 5 & 10 years of service. The authorities have rightly considered the same & fixed the honorarium. Therefore, if any arrears are payable to the Petitioner the same rate may be given to her as early as possible after due calculation.

The writ application is disposed of.