
(2025) 04 OHC CK 1382
In the Orissa High Court
Case No : Writ Petition (C) No. 33868 Of 2023

Smaranika Ray

APPELLANT

Vs

State Of Odisha & Others Vs

RESPONDENT

Date of Decision : 15-04-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2025) 04 OHC CK 1382

Hon'ble Judges : Sashikanta Mishra, J

Bench : Single Bench

Advocate : Sadasiva Patra, S. Behera

Final Decision : Allowed

Judgement

Sashikanta Mishra, J.

1. The petitioner initially joined as Sikshya Sahayak and thereafter, become a Junior Teacher after completion of three years on 09.04.2012 at Manipur Primary School under Banki Block. She became a Junior Teacher by order dated 28.10.2015 joined as such at Bhagipur UGUP School, in the same block. Subsequently, she was adjusted in Mandapara Primary School and joined on 24.08.2017. While working as such, she availed maternity leave from 12.11.2018 to 10.05.2019 and again she remained on medical leave till 04.05.2022 because of complications arising out of child birth. A show cause notice was issued by the District Project Co-ordinator on 21.10.2022 asking her to explain her unauthorized absence on the threat of disengagement.

2. The petitioner submitted a reply to the show cause on 19.11.2022 inter alia, stating about her serious illness and of having submitted leave applications from time to time along with medical certificate dated 04.05.2022. By order dated 13.07.2023, which has been impugned in the present writ application, passed thereafter, the Collector-cum-CEO, after granting opportunity of personal hearing held that the petitioner failed to produce documentary evidence or substantiate

by any means that she had remained absent from duty under intimation to her higher authorities. Further, her service being contractual in nature and renewable every year on satisfactory performance, same was not in existence from 2019-2020 onwards. Thus, holding that her unauthorized absence for more than three years amounts to gross misconduct and deliberate negligence in duty, the Collector directed disengagement of the petitioner with immediate effect.

3. Mr. S. Patra, learned counsel for the petitioner submits that the petitioner had submitted leave applications and medical certificates to the Block Education Officer by registered post which were received and she was also allowed to remain absent because of her ill-health. These aspects have not been taken into consideration by the Collector at all.

4. Mr. S. Behera, learned Addl. Government Advocate submits that the petitioner's service being purely contractual and renewable on yearly basis is deemed to have been terminated in view of her continuous unauthorized absence.

5. After perusing the materials placed on record, particularly the show cause notice dated 21.10.2022, reply of the petitioner dated 19.11.2022 and the copies of the leave applications enclosed under Annexure-8 series, this Court finds that some of the leave applications were sent by registered post and on one such leave application i.e., 11.11.2018 the Block Education Officer has endorsed the receipt along with the observation that the petitioner was on maternity leave from 12.11.2018 to 10.05.2019 for a period of six months. This, prima facie, shows that the petitioner had in fact intimated the authorities of the reason for her absence. The medical certificate enclosed to the writ application issued by the Assistant Professor Department of O & G, SCB Medical College shows that she was advised bed rest from 29.05.2019 to 04.05.2022.

6. There is thus a plausible explanation for the absence of the petitioner from her duties. The observation of the Collector to the contrary in the impugned order therefore, appears to be factually erroneous. In any event, the Collector has not taken into consideration the reply submitted by the petitioner as also the fact that she had submitted leave applications to the Block Education Officer at different times and was also granted maternity leave for six months. It cannot therefore, be treated as a case of unauthorized absence. In such view of the matter, the order of disengagement cannot be countenanced in law.

7. The writ application is therefore, allowed. The impugned order under Annexure-7 is hereby quashed.

8. The concerned authorities are directed to reengage the petitioner as Junior Teacher. It is made clear that the period of disengagement shall not count towards any financial benefits but, shall be notionally counted towards continuity of service. Necessary orders in this regard shall be passed by the Collector, Cuttack within one month from the date of production of certified copy of this order by the petitioner.

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