
(1990) 05 OHC CK 0012

In the Orissa High Court

Case No : Original Jurisdiction Case No. 956 1988

Smt. Khiroda Mohapatra

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 18-05-1990

Acts Referred:

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

Citation : (1990) 2 OLR 148

Hon'ble Judges : S.C. Mohapatra, J; R.C. Patnaik, J

Bench : Division Bench

Advocate : None, for the Appellant; Additional Government Advocate and R.K. Mohapatra, M.K. Mallik and Sashi Das, for the Respondent

Judgement

R.C. Patnaik, J.—Down the ages, the teacher has been equated with and given a pedestal as God because they shape out well-being and out destiny. We may recall the sloka from our Sastras:

Gururbrahma Gurur Bishnu

Gururdeva Maheswara,

Guru Sakshat Parambrahma

Tasmai Sri Gurave Namoh.

In recognition to what we owe to the Guru, we observe 5th September as the "Teachers" Day". Should not, therefore, our acts and conduct be in conformity with what we profess?

2. The Petitioner, the wife of a teacher serving in a non-Government school narrating her pathetic condition on account of irregular payment of salary by the Government to her husband in a letter addressed to this Court highlighted the chasm between what we profess and what we practice. She has alleged that the teachers serving in aided "Schools are not regularly paid their salary. Payment is

not made for even some months, She has attempted to focus our attention on the plight of the members of the families of such teachers. Since the malady was widespread and persistent, we had called upon the State Government to show cause. Irregularity in payment of salary to teachers serving in the non-Government aided schools is admitted. Administrative difficulties are pleaded by way of excuse and explanation. We are not satisfied with the explanation. A teacher serving in a non-Government aided School is not a highly paid employee. He does not live an affluent life. He has not sufficient resources to fall back upon. He somehow manages to eke out his livelihood in the days of soaring prices and inflation. He plans his living in expectation of his salary that he would receive at the end of the months relying upon certain norms of conduct on the part of the authority obliged to make the payment. What happens to him and the members of his family when the payment of salary is not made on the expected day? His expenditure and liabilities do not get deferred for the delay in payment of salary. The schools and colleges where his children study would not wait for months because the father of the student, who is a teacher, has not received his salary. The grocer, the doctor, the milkman and the vegetable vendors would embarrass him and might not oblige him. It is not difficult to imagine the hardship that he has to undergo for nonpayment of salary. What can the society expect in return from such a teacher, who undergoes humiliation, embarrassment and frustration because of delay in payment of salary? If, therefore, it is not hypocrisy to say that a teacher is the moulder of the future of the nation, the society is obliged to do its part, discharge its obligation to the teachers. If the obligation to pay the teachers has been accepted by the State, the duty has to be discharged with regularity. Administrative difficulties as an answer are unacceptable. As regards the teachers serving in the aided non-Government schools except the primary schools, Rule 9 of the Orissa Education (Recruitment and Conditions of Service of Teachers and Members of the Staff of Aided Educational Institutions) Rules, 1974 obligates the State to pay the salary and allowances on par with their counterparts in Government educational institutions. More importantly it provides that the payment shall ordinarily be made in the month following the month to which the claim relates. Rule 9 has statutory force. Hence, the State is obliged to pay in the succeeding month barring rare situations. The same principle also applies to teachers serving in primary schools. There cannot be any dispute that the teachers should be paid their salary in the succeeding month. But, one finds that as regards the teachers serving in the aided schools, the payment is made not with any regularity. It is not realised that a departure from the expected system encourages indiscipline, unruly conduct, defiance, insubordination and if the infringement is grave and persistent, agitational activities. We fail to understand as to why there is no delay in payment of salary to highly placed officials, but complaint persists from the teachers serving in the non-Government aided schools. There is something amiss somewhere and has to be set right. Because, departure from the accepted principles opens the door for criticism that higher echelons are callous or indifferent to the suffering and agony of the persons in lower range. A prudent manager should always avoid such a feeling lest the

combined and accumulated feeling of the many leads to an explosion If the State should pay with regularity as en joined by law, it must pay. There ought not to be any departure of deviation barring very exceptional situation.

3. The complaint of the wife of the teacher, who moved us, has been supported by the Association of Teachers. The Association has averred, "The State Government never releases the sanction order for the payment of the teachers" salary to the Field Officers (D.I.C.I, etc.) by the D.P.I in time, on some pretext and others." It is admitted in the counter-affidavit filed by the State that there was delay in making payment of salary for the month of January, 1988 and there was delay due to toe grant of enhanced D.A. We do not appreciate the stand because the teachers could have been paid their salary in accordance with the existing scale in time. The additional benefits could have been paid later on. The decision to pay the additional benefits could not be a ground for delaying payment of salary in the existing scale of pay and the allowances. Having regard to the statutory mandate and the established system, the State should so gear up its administration that the teachers are paid the dues in time with regularity. We have been, told that the Petitioner"s husband has been paid his dues. We, therefore, close the judgment with the aforesaid directions and observations. In the circumstances, there would be no order as to costs.

S.C. Mohapatra, J.

4. I agree.

Application disposed of.