

Appeal dismissed.

1998 (I) OLR — 567

SUSANTA CHATTERJI AND R. K. DASH, JJ.

Original Jurisdiction Case No. 5235 of 1994

In the matter of an application under Articles 226 of the Constitution of India.

Jogeswar Naik

...

Petitioner

Versus

State of Orissa and others

...

Opp. Parties

For Petitioner

:

Mr. J. K. Rath

For Opp. parties

:

Addl. Govt. Advocate

1 and 2

For Opp. party 3

:

Mr. S. C. Misra

ORISSA EDUCATION (AMENDMENT) ACT, 1994 — Sec. 7-c(4) — Effective from 4.7.1994 — It supersedes all previous Grant-in-aid principles — Grant-in-aid cannot be claimed as a matter of right which has been decided by a Full Bench of Orissa High Court — The only exception has been made that there should not be discrimination and relief should not be granted arbitrarily to the prejudice of a person concerned — The Grant-in-aid principles may be changed from time to time — The Rules and procedures are obviously meant for substantive justice — Under Section 7-c(4) of the amendment Act the cut-off date is 4.7.1994 — In the facts and circumstances of the case the petitioner is to get relief under Sec. 7-c(4) of the Act — He can ask for relief from the date of adjustment against direct payment post — The previous period cannot be reckoned.

(Paras - 8 to 9)

Decided on 13th May, 1998.

No longer effective

Article 226 of the Constitution of India

JUDGMENT

SEWAN LAL V. THE DIRECTOR OF HIGHER EDUCATION, NAYAGARH COLLEGE, PATNAGARH (Plaintiff) vs. THE DIRECTOR OF HIGHER EDUCATION, NAYAGARH (Defendant). The petitioner has asked for the following relief:

"Under the above circumstances, the petitioner most humbly prays that the Hon'ble Court be graciously pleased to issue a writ in the nature of *mandamus* or any other appropriate writ, direction or order, directing the opposite parties to pay the petitioner his salary for the period he has worked as Lecturer in Jawaharlal College, Patnagarh taking into account the salary received by the petitioner at Nayagarh College and accordingly fix the pay of the petitioner in the scale of pay of Rs. 700-1600/- and thereafter in the revised scales of pay of Rs. 2200-4000/- and suitably fix the pay of the petitioner in opposite party No. 3 college and to pay the petitioner his arrear dues taking into consideration such fixation within a stipulated period as deemed fit and proper in the facts and circumstances of the case.

Further the Hon'ble Court be pleased to direct the opposite parties to pay the petitioner immediately in the scale of pay of Rs. 2200-4000/- without any further delay since the counterparts of the petitioner as well as persons equally circumstanced like that of the petitioner are in receipt of such scale of pay."

2. The grievance of the petitioner is that though he was appointed as a Lecturer on 14.9.1982 and his appointment was validated and regularised, yet he is not getting the benefit of the scale of pay prescribed by the U.G.C. as also other financial benefits although Lecturers appointed like the petitioner and equally circumstanced including those identically placed in Government establishments are all enjoying such benefits.

3. It is averred in the writ petition that the petitioner was appointed as a Lecturer in Logic and Philosophy in Nayagarh College in the scale of pay of Rs. 525-1300.00 in the fourth post of the college and the appointment was against a direct payment post. His appointment was duly approved by the Director of Higher Education, Orissa, opposite party No. 2, vide his Office Order No. 48341 dated 31.10.1983. The petitioner was paid his salary component from the grant-in-aid scheme of the State Government and he continued in the post with annual increments of pay till 3.6.1987.

1998/1

and the petitioner was appointed as a Lecturer in Logic and Philosophy on *ad hoc* basis. The petitioner was appointed on 14.9.1982. His *ad hoc* appointment was approved by the Governing Body of Jawaharlal College, Patnagarh for a period of six months with effect from 14.9.1982 or till the joining of the original incumbent on his return from leave against a direct payment post (leave vacancy) as per Annexure-1 to the writ petition. Subsequent upon joining of the incumbent who was on leave the service of the petitioner was terminated with effect from 31.5.1987 afternoon. Subsequently the petitioner's case was recommended to the Governing Body of Jawaharlal College, Patnagarh for issue of appointment letter on *ad hoc* basis for a period of six months as fresh entrant against the second post of Lecturer in Logic and Philosophy under Management Payment Scheme. As the petitioner was facing retrenchment in his previous station

5. It is also submitted that this Court has held in a number of cases that once the services of an employee is validated with effect from the date of his initial appointment, even if intermittently he was put to a management post, the continuity of his service as also pay protection were to be granted to him and his pay is to be fixed accordingly. The services of the petitioner having been validated with effect from 14.9.1982, the petitioner is entitled to get salary for the period of service rendered by him at Jawaharlal College at Patnagarh and accordingly his pay was to be fixed at the Ranpur College.

6. It is the specific case of the opposite parties that the petitioner was selected by the Governing Body of Nayagarh College for appointment as a Lecturer in Logic and Philosophy on *ad hoc* basis. The petitioner joined his duty on 14.9.1982. His *ad hoc* appointment was approved by opposite party No. 2 for a period of six months with effect from 14.9.1982 or till the joining of the original incumbent on his return from leave against a direct payment post (leave vacancy) as per Annexure-1 to the writ petition. Consequent upon joining of the incumbent who was on leave the service of the petitioner was terminated with effect from 31.5.1987 afternoon. Subsequently the petitioner's case was recommended to the Governing Body of Jawaharlal College, Patnagarh for issue of appointment letter on *ad hoc* basis for a period of six months as fresh entrant against the second post of Lecturer in Logic and Philosophy under Management Payment Scheme. As the petitioner was facing retrenchment in his previous station

BHAGABAN V. STATE

1998 (1)

College. The previous period cannot be reckoned under any stretch of imagination. With such observations and directions the writ petition is disposed of.

There would be no order as to costs.

R. K. DASH, J.

I agree.

Petition disposed of.