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REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1272 OF 2011

State of Orissa & Anr.

..... Appellants

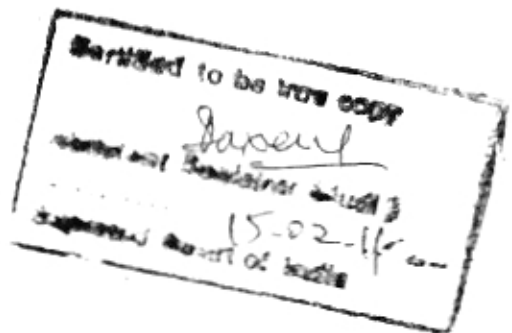
Versus

Mamata Mohanty

..... Respondent

WITH

Civil Appeal Nos. 1246-1271 of 2011
Civil Appeal Nos. 1273-1274 of 2011
Civil Appeal Nos. 1277-1281 of 2011
Civil Appeal Nos. 1283 of 2011
Civil Appeal Nos. 1285-1287 of 2011
Civil Appeal Nos. 1289-1293 of 2011
Civil Appeal Nos. 1295-1300 of 2011
Civil Appeal Nos. 1302-1313 of 2011
Civil Appeal Nos. 1315-1321 of 2011



J U D G M E N T

Dr. B.S. CHAUHAN, J.

1. All the aforesaid appeals have been filed against the judgments and orders of the High Court of Orissa at Cuttack which have been passed placing reliance on its earlier judgments in similar cases. The facts and legal issues involved herein are the same. Thus, they are heard together and are being disposed of by the common judgment and order. However, for convenience, Civil Appeal No. 1272 of 2011 is taken to be the leading case and some reference to facts would be taken

from other appeals as and when necessary in the context of legal issues involved herein.

2. The appeal has been preferred against the judgment and order dated 22.3.2006 of the High Court of Orissa at Cuttack in Writ Petition (Civil) No. 14157 of 2005.

FACTS:

3. (A) The respondent was appointed as a Lecturer in Niali College, Niali, on 9.7.1979 and her appointment as such was approved by the Director of Higher Education, Orissa, a statutory authority - the appellant No. 2, vide order dated 18.12.1985, and she was granted the benefit of receiving 1/3rd grant-in-aid.

(B) In order to provide better facilities to teachers and enhance the standard of higher education, the Government of Orissa, came out with a Notification dated 6.10.1989 with a revised pay scale enforceable with effect from 1.1.1986 as per the recommendations of UGC. However, the said Notification was applicable only in such cases where the post has been granted the benefit of grant-in-aid Scheme by 1.4.1989 and person manning that post had a good academic record i.e. 54 per cent or its equivalent grade in a Masters' Course.

(C) Respondent did not make any representation before any authority to get the benefit of the said Notification dated

6.10.1989, rather approached the High Court on 11.11.2005 by filing Writ Petition (Civil) No. 14157 of 2005 seeking a direction to the State Government to pay the pre-revised pay scale with effect from 1.1.1986 placing reliance on the various orders passed by the High Court earlier in cases of other persons e.g. in case OJC No. 3705 of 1987.

(D) The present appellants contested the said writ petition pointing out that the respondent had secured only 40 per cent marks in her Master's course. She was by no means, eligible for appointment. Her appointment, being not in consonance with law, remained illegal.

(E) The High Court placing reliance on its earlier judgments, allowed the said writ petition giving the benefit of the U.G.C. pay scale to her w.e.f. 1.6.1984. Hence, this appeal.

4. The submissions made in all these appeals, particularly by the respondents are that the High Court had been dealing with the subject matter for a long time and judgments of the High Court have been upheld by this court. Once the SLPs against the judgments of the High Court which had been relied upon by the High Court while deciding these cases, have been dismissed in limine, judicial discipline and decorum demand that this Court should follow the same order. Thus, the judgments and orders impugned herein did not warrant any interference.

5. On the other hand, it has been submitted by learned counsel for the appellants that factual and legal issues involved in these cases have never been considered either by the High Court or by this Court in proper perspective. For example, in Civil Appeal No. 1274 of 2011, State of Orissa v. Mrs. Manju Patnaik, the matter had initially been filed before the Orissa Education Tribunal. Therein, the question arose as to whether the respondent herein had been appointed by following the procedure prescribed by the law for making the appointment. As the State had raised the issue that respondent had been appointed without following any procedure known in law for this purpose her appointment itself was illegal and void. The vacancy on the post of Lecturer in Chemistry in Paramananda College, Bolgarh, Dist. Khurda was never advertised nor were the names of eligible candidates requisitioned from the Employment Exchange. Admitted facts in the said case remain that the vacancy was advertised merely by affixing notices on the notice board of the College and of Bolgarh Block Office inviting applications from the eligible candidates. More so, the respondent had not even faced an interview before the Selection Board, as envisaged by the Statutory Rules in force at the relevant time, rather she had been interviewed merely by representatives of the Committee of Management of the College. The Tribunal accepted the case of the State to that effect, but granted her