

IN THE HIGH COURT OF ORISSA: C U T T A C K

(ORIGINAL JURISDICTION CASE)

O.J.C. NO. 5855 OF 1998

Code - 5

CLASSIFICATION:

IN THE MATTER OF:

An application under Article 226 of the Constitution of India ;

A n d

IN THE MATTER OF:

An application under Articles 14 and 16 read with Article 39(d) of the Constitution of India;

A n d

IN THE MATTER OF:

An application for payment of the petitioner's salary in the scale of pay of Rs.2200-6000/- meant for the post of lecturers;

A n d

IN THE MATTER OF:

An application challenging the illegal and arbitrary action of the opp. parties 1 and 2 in fixing the pay of the petitioner in the scale of pay of Rs.2000-3500/- which pay scale is meant for the post of junior lecturers;

A n d

T.C. Affected
R.H.

not in Court
B.S.

for copy
22-4-98

prodt
22-4-98

SPAT
TUPRE

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IN THE MATTER OF:

DR. SIDDHARTHA KUMAR SAHU, aged about
37 years, son of Dr. Ananta Ch. Sahu,
At: Alisabazar, Po. Chandinichouk, Dist. Cuttack,
at present serving as a lecturer in Botany in
Christ College, At/Po. Dist. CUTTACK.

PETITIONER

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VERSUS

1. State of Orissa represented through the
Principal Secretary to Government,
Department of Higher Education, State
Secretariat Building, Bhubaneswar,
Dist. Khurda.

2. Director of Higher Education
Heads of Departments Building,
Bhubaneswar, Dist. Khurda.

3. Governing Body of Christ College
represented through the Secretary,
At/Po. Dist. Cuttack

.....
OF THE PARTIES

O.J.C.NO.5855 OF 1998

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Date of Order	ORDER WITH SIGNATURE	Office note as in action (if any). Taken on Order
9.5.2007	<p>1. Heard Mr. D.K. Bery, learned counsel for the petitioner and learned counsel for the State.</p> <p>2. The petitioner, who is working as a lecturer in Botany in Christ College, Cuttack, has filed this writ application praying for a direction to the O.Ps. to extend him the scale of pay of Rs.2200-4000/-, which is meant for the Lecturers serving in Non-Government Aided Colleges either covered or eligible to be covered under the Direct Payment Scheme prior to 1.4.1989.</p> <p>3. The case of the petitioner in brief is that on being selected was appointed against 7th post of Lecturer in Botany in Christ College. It is stated that on the vacancy caused in the 5th post of Lecturer in Botany due to the death of the incumbent of that post, namely, Dr. G.C. Bairiganjan and on elevation of the incumbents continuing against 6th and 7th posts to 5th and 6th posts respectively, the 7th post fell vacant against which the petitioner was appointed vide Annexure-4 and joined on 25.10.1991. The appointment of the petitioner was duly approved by the Director vide his office order no.25439 dated 16.5.1992 (Annexure-5/A) and while approving such appointment, the scale of pay of the petitioner was fixed at Rs.2,000-3,500/-.</p>	



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10.11.2006

Serial No. of Order	Date of Order	ORDER WITH SIGNATURE 2	Office note as to action (if any) taken on Order
		<p>It is stated that the said pay scale was meant for the post of Junior Lecturer and not for the post of Lecturer. The further case of the petitioner is that he was never appointed in the post of Junior Lecturer and the 7th post of Lecturer in Botany was never meant for Junior Lecturer as in the advertisement issued vide Annexure-1, the Governing Body of the College wanted Lecturers one each in Botany, Oriya, Sanskrit and Hindi in response to which the petitioner applied for the post of Lecturer in Botany and faced the interview and was ultimately selected. Annexure-1 had not indicated anything to show that the aforesaid post was a post of Junior Lecturer. Rather, it was clearly stated therein that each post of Lecturers would carry usual pay and D.A. and candidates having honours and Ph.D/M.Phil. degree would be preferred. The petitioner having secured First Division with 65.5% of marks in Post Graduate Botany Examination and having obtained M.Phil degree in the year 1984 from the Institute of Advance Studies, Meerut, and also awarded with Ph.D. degree from Utkal University, applied for the post in question. Against the fixation of the scale of pay of Rs.2,000-3,500/-, the petitioner made several representations but to no effect. Therefore, he</p>	



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		<p>has filed this writ application for the relief as indicated herein above.</p> <p>A counter affidavit has been filed by the Deputy Director, Higher Education, NGC-1, Orissa, on behalf of O.No.2-Director of Higher Education, Orissa, indicating therein that the scheme of revision of pay scales of University and College Teachers formulated by the University Grants Commission for implementation with effect from 1.1.1986 was communicated to the State Government by letter dated 17.6.1987 with subsequent clarification on 7.9.1987 and 22.7.1988 vide Annexures-A/2, B/2 and C/2 respectively. In Annexure-A/2, i.e., the letter dated 17.6.1987, according to the learned counsel for the O.Ps., it was left to the State Government to adopt and implement the scheme after taking local conditions into consideration and also to decide in their discretion to introduce scales of pay different from those mentioned in the scheme and may also give effect to the revised scales of pay from 1.1.1986 or on a later date. According to the learned counsel for the O.Ps., in order to extend the revised U.G.C. scales of pay to bonafide teachers, the Government in Education and Youth Services Department vide resolution no.44032 dated 6.10.1989 (Annexure-D/2) decided</p>	



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in principle to implement of the scheme of revision of pay scales with effect from 1.1.1986 for College Teachers on the certain terms and conditions indicated therein. Para 1.1 of such conditions stipulates as follows:

"3.1 Coverage- The revised scales and other measures for improvement of standards in Higher Education shall be applicable to all categories of full time Teachers working in all affiliated Government Colleges and aided Non-Government Colleges either covered or eligible to be covered under direct payment schemes till the 1st April, 1989."

The sum and substance of the argument of the learned counsel for O.P.No.2 is that as the petitioner was appointed on 25.10.1991, i.e., after 1.4.1989, he is not entitled to get the benefit as envisaged under the said scheme. Further, it is stated that the U.G.C. scales of pay are only applicable to the teachers of Degree Colleges and not to the teachers of educational institutions imparting +2 courses, which does not come under the purview of U.G.C. and, therefore, the U.G.C. scales can have no application to them. As the petitioner joined for the first time in Christ College, Cuttack and his appointment was approved with effect from 25.10.1991 under the direct payment scheme which is after 1.4.1989, he is not entitled to



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		<p>get the benefit of revised U.G.C. scale of pay, i.e., Rs.2,200-4,000/- in terms of the resolution dated 6.11.1990.</p> <p>5. Now the question arises whether the petitioner was appointed in a Degree College or a College imparting +2 education. We have already stated in the foregoing paragraph that the advertisement in response to which the petitioner submitted his application and faced the interview does not show anything to come to a conclusion that the petitioner was appointed in an institution imparting +2 education and secondly the petitioner was appointed against the post of Botany, which was created and approved as per Annexure-6, i.e., on 26.2.1979. It is, therefore, evident that the post against which the petitioner was appointed in Christ College was covered under the direct payment scheme with effect from the academic session 1984-1985 and as such the petitioner comes within the sweep of 'Coverage' envisaged in paragraph 3.1 of the resolution dated 6.10.1989, the relevant portion of which is quoted in the preceding paragraph.</p> <p>6. This being the fact, we are not in a position to find any ground to deny the benefit claimed by the petitioner. The ground of such denial, as taken by O.P. No.2 in his</p>	<p>5</p>

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		<p>counter affidavit, absolutely holds no water. Accordingly, we allow this writ application with a direction to the G.P.S. to give the petitioner the benefit of salary of Degree college Lecturer and re-compute the same within a period of three months from the date of communication of this order and give the differential salary within a period of six months thereafter.</p> <p>Grgent certified copy of this order be granted as per rules.</p>	<p>10-3-80 B.P. Singh J.</p> <p>10-3-80 J. D. Sharma J.</p>

J. C. Addl. Secy - a

- attached