

RVWPET No. 206 of 2015

Misc. Case No. 261 of 2015

29.07.2016 This application has been filed for condonation of delay in preferring the review application.

Considering the contention raised in the petition and after hearing learned counsel for the petitioner delay in filing the review application is condoned.

Misc. Case stands disposed of.

...

Dr. B.R. Sarangi, J.

RVWPET No. 206 of 2015

09.07.2016 Heard Mr. A.K. Pandey learned Addl. Standing Counsel for School and Mass Education Department for the review petitioners and learned counsel for the opposite party.

The review petitioners have filed this application for review of the order dated 31.07.2015 passed in W.P.(C) No. 394 of 2011.

Mr. A.K. Pandey learned Addl. Standing Counsel for School and Mass Education Department appearing for the review petitioners states that the petitioner in W.P.(C) No. 394 of 2011 has filed the application claiming headmaster scale of pay who has been working as headmaster in-charge in an aided institution. It is stated that this question has already been decided by this Court as well as by the apex Court in Pabitra Mohan Dash v. State of Orissa AIR 2001 SC 560 but without bringing the fact to the notice of the Court the petitioner seeks for a direction from this Court to consider his case in view of the judgment passed in Selva Raj v. Lt. Governor of Island Port Blair and others, AIR 1999 SC 838 which is prior decision of Pabitra Mohan Dash case (supra). Since the matter was disposed of at the stage of admission and this fact has not been brought to the notice of the Court this Court directed the opposite party-review petitioners to pay the headmaster scale of pay in view of the ratio decided in Selva Raj (supra). Therefore the review-petitioners have filed this application seeking for review of the said order.

Learned counsel for the opposite party states that since this Court has decided similar matters referring Selva Raj (supra) he has relied upon the said judgment and this Court disposed of the said writ petition directing the opposite parties to pay the amount to the petitioner.

Considering the contention raised by learned counsel for the parties and after going through the records it appears that if this question has already been decided by the apex Court without bringing the said judgment to the notice of this Court the opposite party has relied upon the judgment of the apex Court in Selva Raj (supra) and states that he is entitled to get the benefit which is absolutely misconceived approach made by the opposite party. It is stated that while disposing of the matter the persons who were opposite parties in the said writ petition have not been noticed and on the statement made by the petitioner the matter has been disposed of. Therefore unless the order is reviewed it will cause great prejudice to the review petitioners.

In that view of the matter this Court is of the considered view that the order so passed on 31.07.2015 in W.P.(C) No.394 of 2011 cannot sustain in the eye of law in view of subsequent decision of the apex Court in Pabitra Mohan Dash (supra). Accordingly the order dated 31.07.2015 passed in W.P.(C) No.394 of 2011 is hereby recalled and the opposite parties are directed to consider the case of the petitioner in the light of the judgment passed by the apex Court in Pabitra Mohan Dash (supra) and release the headmaster scale of pay on the ratio decided on that case.

Accordingly the Review Petition is disposed of.

...

Dr. B.R. Sarangi, J.