

13. 16.03.2021 The matter is taken up through hybrid arrangement (virtual/physical mode).

Heard Ms. S. Pattnaik, learned counsel for the petitioner; Mr. G.Mohanty, learned counsel appearing on behalf of Mr B.P. Das, learned counsel for opposite party no.1; Mr. S.Jena, learned Standing Counsel for School and Mass Education Department appearing for opposite parties no.2, 3 and 4; and Mr. H.P. Rath, learned counsel for opposite party no.5.

The sole contention of Ms. S.Pattnaik, learned counsel for the petitioner is that the petitioner was appointed against the vacancy created on account of termination of opposite party no.5 and the tribunal has decided the matter without the petitioner being impleaded as a party, hence the order passed by the tribunal is not legal.

Mr. H.P. Rath, learned counsel for opposite party no.5 rely upon judgment of this Court in ***Garuda Adabar v. State of Orissa***, 1997 (II) OLR 521 and that of the apex Court in ***Poonam v. State of Uttar Pradesh***, (2016) 2 SCC 779 contending that it cannot be regarded as a binding precedent for the proposition that in case of removal or dismissal or termination, a subsequently appointed employee is a necessary party. Therefore, the claim made in the writ application cannot sustain in the eye of law.

Ms. S.Pattnaik, learned counsel for the petitioner seeks time to examine the above proposition of law.

Call this matter next week.

.....
(DR. B.R. SARANGI)
JUDGE

