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C.A.No. 25 OF 1998

ITEM No.102

Court No.10

SECTION XIA

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Civil Appeal No.25 of 1998

State of Orissa & Anr. Appellant (s)

vs.

C.S.Mohapatra & Ors. Respondent (s)

(With Office Report)

Dated: 25/2/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR

HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant (s)

Mr. Jana Kalyan Das,Adv.

For Respondent (s) Mr. Jamshed Bey,Adv.

Mr. Pramanand Gaur,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is allowed in terms of the signed order.

(Sarojbala)(Asha Joshi)

PA to Addl.Registrar

Court Master

(The signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.25 OF 1998

State of Orissa & Anr. Appellant(s)

Vs.

C.S. Mohapatra & Ors. Respondent(s)

O R D E R

The dispute in this appeal relates to the promotion to the post of Reader in English in K.S.U .B. College Bhanjagar, District Ganjam, State of Orissa. The High Court has directed the appellant to approve the promotion of Respondent No. 1 as Reader w.e.f. 18.9.1977. The State is aggrieved by the aforesaid order. Hence, this appeal.

It appears that Respondent No.1 was working as Lecturer in K.S.U.B. College Bhanjagar since 18.8.1969. The senior most Lecturer on completion of eight years of service was entitled to be promoted to the post of Reader subject to the condition that there was Honours course in the concerned subject and also approved by the State. It appears that due to financial crunch, the posts of Reader in all subjects in

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all aided private colleges were abolished w.e.f. September 30, 1977. It further appears that according to Respondent No.1 he was entitled to promotion to the post of Reader on completion of eight years of service namely w.e.f. 18.8.1977. It further transpires, perhaps acceding to his request the Management passed an order dated 13.8.1982 promoting Respondent No.1 as Reader w.e.f. 18.8.1977. Such order of promotion was forwarded to the State of Government for approval but it was rejected. Ten years thereafter the respondent No.1 filed a writ petition challenging the rejection of recommendation of his promotion to the post of Reader. The High Court, as mentioned above, allowed the writ petition, quashed the order, refusing approval of the proposed promotion of respondent No.1 and directed the appellant to give approval for his promotion w.e.f. 18.8.1977.

The learned counsel for the appellants has submitted that one of the requirements for the post of Reader has been that the Institution must have Honours course but the Honours course in English subject was introduced in the college in question only in 1978. That being the position, there was no occasion of there being any post of Reader against which the respondent No.1 could be promoted in 1977. It is further submitted that the posts of Reader were re-introduced only in 1985. The Honours course having been introduced in 1978, the

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post of Reader came into being in 1985, in that view of the matter, the respondent No. 1 was promoted as Reader in 1985. We find force in the submission made that no order of promotion to the post of Reader could be passed nor any such recommendation could be made in 1977 when Honours course in English was not there in the Institution at all and all other posts of Readers in other departments and other institutions were abolished and were re-introduced only in 1985. There could be no promotion in vacuum. The learned counsel for respondent No.1 could not indicate anything to support the decision of the High Court giving direction for his promotion to the post of Reader w.e.f. 1977. In view of the above discussion, we find that the judgment and order passed by the High Court is not sustainable. Therefore, the appeal is allowed and the order of the High Court is set aside and the writ petition stands dismissed.

.....J.
(BRIJESH KUMAR)

.....J.
(ARUN KUMAR)

NEW DELHI
FEBRUARY 25, 2004.