

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 3141 of 2012

Haidar Mallick

.....

Petitioner

Mr. S. B. Jena, Advocate

Vs.

State of Orissa & others

.....

Opposite parties

Mr. S.N. Nayak, ASC

(O.Ps.1-4)

Mr. S. Swain, Advocate

(O.P.5)

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

21.04.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. S.B. Jena, learned counsel for the petitioner; Mr. S.N. Nayak, learned Additional Standing Counsel for the State and Mr. S. Swain, learned counsel appearing for opposite party no.5.
3. In compliance of the order dated 28.03.2022, Mr. S.N. Nayak, learned Additional Standing Counsel produces a letter dated 04.04.2022 issued by the Chief District Medical & Public Health Officer, Nayagarh to the office of the Advocate General, Odisha, wherein it is stated as follows:

“It is humbly submitted that in response to the impugned order dtd. 02.02.2012 passed in O.A. No.3827© of 2010 by the learned OAT, Cuttack with respect to paragraph-8 of the tribunal’s order, no steps have been taken by the then Chief Dist. Medical and Public Officer, Nayagarh (Respondent no. 3) regarding grant of appointment to the applicant as a contractual driver instead of appointing respondent no.5 and to adjust the respondent No.5 against any other vacant post of contractual driver or to revert the respondent no.5 to his former post.

It is humbly submitted that the Hon’ble High Court of

Odisha on dtd 24.02.2012 had issued a notice to the CDMO, Nayagarh with direction not to act upon annexure-4 of then order of the Hon'ble OAT. Copy enclosed as a Annexure – A and in obedience to the said orders of the Hon'ble High Court the respondent No 3 had not acted upon the annexure-4 of the order of the Hon'ble OAT,Cuttack.

It is again humbly submitted that the former post of respondent no-5 was not a sanctioned post and the respondent No 5 was working on daily wages basis in the post under District Blindness Control Society, Nayagarh presently functioning as National Programme for control of Blindness, Nayagrah & he was being paid his monthly wages under NHM, PIP. When the allocation of funds in NHM, PIP stopped, the post of driver i.e. respondent no-5 was a automatically abolished and the respondent No-5 was terminated accordingly. Copy of the NHM, PIP for the year 09-10 is annexed as annexure B.

Lastly, it is pertinent to mention here that neither a contractual post of driver was lying vacant nor the former post of respondent No-5 was in force to revert him to adjust the applicant against the respondent No-5."

4. In view of such position, the writ petition is disposed of in terms of the intimation received from the authority.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE