

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 16067 of 2012

***MD, Orissa Lift Irrigation
Corporation Ltd.,
Bhubaneswar***

.....

Petitioner

Mr. S. B. Mohanty, Advocate

Vs.

***Odisha Admn. Tribunal,
Bhubaneswar and others***

.....

Opposite parties

*Mr. P.P. Mohanty, AGA &
Mr. Pitambar Acharya, Senior Advocate
(O.P.3)*

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

11.03.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Mohanty, learned counsel for the petitioner, Mr. P.P. Mohanty, learned Additional Government Advocate for State-opposite party no.2 and Mr. Pitambar Acharya, learned Senior Advocate for opposite party no.3.

3. The petitioner-Orissa Lift Irrigation Corporation, Ltd. has filed this writ petition challenging the order dated 28.07.2011 passed by the Orissa Administrative Tribunal, Bhubaneswar in O.A. No. 753 of 2003, by which the Tribunal has directed the Commissioner-cum-Secretary to Government, Water Resources Department as well as the Managing Director, Orissa Lift Irrigation Corporation to consider and take the applicant (present opposite party no.3) to any similar post in GWSI or to absorb him in a regular post of OLIC, as steps have been taken to absorb some surplus staff in OLIC.

4. Mr. S.B. Mohanty, learned counsel for the petitioner contended that the petitioner is aggrieved by the alternative direction given in the impugned order dated 28.07.2011, to absorb opposite party no.3 in regular post of OLIC, as steps have been taken to absorb some surplus staff in OLIC. According to him, there are surplus staff due to downsizing of the staff position and vacancies are not available. Therefore, opposite party no.3 cannot be absorbed in a regular post in OLIC, in terms of the order passed by the Tribunal. So far as the direction given to the present opposite party no.2 is concerned, the State Government has not preferred any writ petition challenging that part of the order passed by the Tribunal, thereby, the State Authorities may be directed to consider the case of the opposite party no.3 for absorption in any similar post.

5. Mr. Pitambar Acharya, learned Senior Advocate for opposite party no.3, emphatically submitted that the direction was given to both the State Government as well as Orissa Lift Irrigation Corporation. If for the downsizing, the staff position was reduced, however, subsequently the OLIC has absorbed some surplus staff in their organization. Therefore, there is no impediment on their part to absorb opposite party no.3 and as such, they should not have approached this Court. So far as the direction given to the State Government, he contended that the State authorities have not challenged the order passed by the Tribunal and, on the other hand, in the counter affidavit a letter dated 17.09.2011 has been annexed, by which the Under Secretary to Government in Water Resources Department has written to the Director, Ground Water Survey & Investigation, requesting him to take necessary steps to absorb opposite party no.3 in any similar category of vacant post so as to

implement the orders of the Court. Though this was the intention of the State Authority to comply the order passed by the Tribunal, but till date, the same has not been complied with, as a result of which the opposite party no.3 is suffering a lot.

6. Having heard learned counsel for the parties and after going through the record, it appears that the present writ petition has been filed by the OLIC on the plea that there is downsizing of the organization and as such there is no post available to absorb the opposite party no.3. Thereby challenging that part of the order passed by the Tribunal, the OLIC has approached this Court. But that itself cannot absolve their liability to absorb the opposite party no.3 in any regular post, as steps have been taken to absorb some surplus staff in OLIC. If some surplus staff have already been absorbed in the OLIC, then the OLIC cannot deny the benefit to the opposite party no.3 in compliance to the order passed by the Tribunal. In addition to this, there is also a direction by the Tribunal to the State of Odisha, Water Resources Department (present opposite party no.2) to take necessary steps to absorb opposite party no.3 in any similar post of GSWI. The same has been considered by the Under Secretary to Government in Water Resources Department, vide letter dated 17.09.2011, wherein the Director, Ground Water Survey & Investigation, Orissa has been requested to take necessary steps to absorb the opposite party no.3 in any similar category of vacant post so as to implement the orders of the Tribunal.

7. In view of the above, this Court disposes of the writ petition directing the State authorities to comply the order of the Tribunal dated 28.07.2011 passed in O.A. No. 753 of 2003 as expeditiously as possible, preferably within a period of three months from the date of

communication of this order, or else the OLIC, who is the employer of opposite party no.3 shall take steps for absorption of the opposite party no.3, if regular vacancy is available, since OLIC has already absorbed surplus employees in regular vacancies. Needless to say that if the opposite party no.3 is entitled to get some benefits, the same also be extended in his favour in accordance with law.

8. In view of disposal of the writ petition, the interim order stands vacated.

9. Issue urgent certified copy as per rules.

Arun

