

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14279 of 2013

Manoj Kumar Nanda

.....

Petitioner

Mr. B.S. Rayaguru., Advocate

Vs.

State of Odisha & Others

.....

Opposite parties

Mr. A.K. Mishra, A.G.A.

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

14.03.2022

Order No.

3.

This matter is taken up through hybrid mode.

2. Heard Mr. B.S. Rayaguru, learned counsel appearing on behalf of Mr. J. Pattnaik, learned Senior Counsel for the petitioner and Mr. B.P. Tripathy, learned Additional Government Advocate.

3. The petitioner has filed this writ petition seeking to quash the order dated 05.02.2013 under Annexure-17 passed by the State Administrative Tribunal, Principal Bench, Bhubaneswar in O.A. No.1010 of 2007 and to issue direction to the opposite parties to bring the petitioner to the regular establishment retrospectively from the date on which he has completed five years of service in the work charged establishment and to sanction pension and pensionary benefits from the date of his retirement taking into consideration the long service experience in the work-charged establishment.

4. Mr. B.S. Rayaguru, learned counsel for the petitioner contended that O.A. No.1010 of 2007 was filed seeking direction to the opposite parties to bring the petitioner to the

regular establishment retrospectively from the date on which he has completed five years of service in the work charged establishment and to sanction pension and pensionary benefits from the date of his retirement taking into consideration the long service experience in the work-charged establishment. But the tribunal, vide order dated 05.02.2013, rejected the claim of the petitioner stating that since the petitioner has already retired from his service in the work charged establishment with effect from 30.06.2005, no direction can be issued for regularization of his service. It is further contended that since the petitioner was working under the work charged establishment, his case is covered by the judgment of this Court in W.P.(C) No. 1534 of 2008 (**State of Orissa & Others -Vrs.- Jyostna Rani Pattnaik & Others**) wherein the order dated 30th July 2007 passed by the Tribunal in O.A. No.2655(C) of 2003 has been confirmed and also the judgment of the Single Judge in WPC (OAC) No.3494 of 2013 (**Abhaya Charan Mohanty -Vrs.- State of Odisha & Others**) disposed of on 14.07.2021 relying upon the judgment of the Apex Court in Civil Appeal No.22498 of 2012, which was dismissed on 07.01.2013 by confirming the order passed by this Court in W.P.(C) No.5377 of 2010 disposed of on 19.12.2011 by which the order passed by the Tribunal in O.A. No. 1189(C) of 2006 has been confirmed. Therefore, the relief sought for regularization of service of the petitioner ought to have been granted.

5. Mr. B.P. Tripathy, learned Addl. Govt. Advocate for the State contended that Tribunal is well justified in passing the order impugned dated 05.02.2013 in O.A. No. 1010 of 2007, which does not warrant interference of this Court.

6. Having heard learned counsel for the parties and after

going through the records, this Court finds that since the benefit of retirement has been extended to the petitioner, there is no justification not to extend the benefit of regularization as due and admissible to the petitioner in accordance with law. More so, this question is no more *res integra* in view of the fact that similarly situated persons have been extended with the benefit by virtue of the order passed by the Tribunal which has been confirmed by this Court as well as the Apex Court.

7. Therefore, this Court while setting aside the impugned order dated 05.02.2013 under Annexure-17, disposes of this writ petition directing the opposite parties to extend the benefit of regularization in favour of the petitioner and grant all consequential benefits, in terms of the judgment passed in the case of **Jyostna Rani Pattnaik** as well as **Abhaya Charan Mohanty** (supra), within a period of four months from the date of communication of the order.

8. Issue urgent certified copy as per rules.

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

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(**SAVITRI RATHO**)
JUDGE