

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.21498 of 2011

Subash Chandra Sahoo & Others* *Petitioners

Mr. Goutam Kumar Acharya, Senior Advocate

-versus-

Commissioner-cum-Secretary to Govt. Opposite Parties
Department of Water Resources,
Orissa and others

Mr. P.K. Muduli, Addl. Govt. Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN

ORDER
13.04.2022

Order No.

30. 1. The prayer in the present petition is for a direction to the Opposite Parties to regularise the services for these Petitioners in terms of the Finance Department Resolution dated 15th May, 1997 and in the light of the order dated 2nd February, 1999 passed by the Odisha Administrative Tribunal (OAT).
2. The background facts are that the four Petitioners, at the time of filing of the present petition, were peons brought over to the work charged establishment of the Executive Engineer Mahanadi Barrage Division, Gandarpur in the district of Cuttack. The case of Petitioners is that they were appointed as Peons on daily wage basis

on 2nd November, 1984, 1st October, 1984, 1st May, 1984 and 1st July, 1985 respectively. On 30th November, 1983 the Irrigation and Power Department of the State Government created 24 posts of peons. It is stated that despite several representation by the Petitioners, they were not considered for regularization (approval). A Resolution was adopted by the Finance Department on 15th May, 1997 for regularising the NMR/DLR/Job Contract workers under Regular Establishment, and the workers engaged prior to 12th April, 1993, were regularised.

3. Initially a writ petition was filed in the year 1991 in this Court which was transferred to the file of the OAT as T.A. No. 29(C) of 1993. By the impugned order dated 2nd February, 1999 the OAT has directed the Chief Engineer to absorb the Petitioners as regular Class-VI employees with effect from the date on which the vacancies arose keeping in view the Government Resolution dated 15th May, 1997.

4. As the above order was not complied with, a contempt petition was filed. At the hearing on 10th May 2011, the Chief Engineer appeared and filed a compliance report. The OAT was shown an office order dated 4th May, 2011 whereby the Petitioners were brought over to the work charged establishment in the Post of Attendant. Since this was accepted by the Petitioner, the contempt petition was closed.

5. The challenge in the present petition is to the above order passed by the OAT on 10th May, 2011 dropping the contempt petition in CP (C) No. 71 of 2000.

6. Mr. Goutam Acharya, learned Senior Counsel for the Petitioners submits that the counsel for the Petitioners before the OAT did not have instructions to agree to the dropping of the contempt proceedings. He submitted that the OAT ought not to have accepted the above Office Order dated 4th May, 2011 as being in compliance with the directions issued by the OAT.

7. The fact remains that in the present petition there is no averment that the Petitioners were misled into being brought on to the work charged establishment by Office Order dated 4th May, 2011 issued by the Superintending Engineer, Drainage Circles, Cuttack in compliance with the directions earlier issued by the OAT. In the absence of such pleading it is not possible for the Court to doubt the correctness of the statements made in the order of the OAT dropping the contempt proceedings.

8. Consequently, the Court is unable to find any ground for interfering with impugned order of the OAT. However, given the stand taken in the counter affidavit it is directed that as and when vacancies arise, the cases of the Petitioner Nos. 1 to 4, who are still in service, be considered for regularisation by the Opposite Parties.

9. The writ petition is accordingly disposed of in the above terms.

10. Issue urgent certified copy as per rules.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

Laxmikant

