

**ORISSA HIGH COURT: CUTTACK**

**W.P.(C) No. 18659 of 2016,**  
**W.P.(C) No. 18660 of 2016,**  
**W.P.(C) No. 18661 of 2016,**  
**W.P.(C) No. 31231 of 2011,**  
**W.P.(C) No. 269 of 2022,**  
**W.P.(C) No. 1998 of 2022,**  
**W.P.(C) No. 1999 of 2022,**  
**W.P.(C) No. 2001 of 2022,**  
**W.P.(C) No. 2003 of 2022,**  
**W.P.(C) No. 2004 of 2022,**  
**W.P.(C) No. 2005 of 2022,**  
**W.P.(C) No. 2006 of 2022,**  
**W.P.(C) No. 2087 of 2022,**  
**W.P.(C) No. 2090 of 2022,**  
**W.P.(C) No. 2093 of 2022,**  
**W.P.(C) No. 2139 of 2022,**  
**W.P.(C) No. 2209 of 2022,**  
**W.P.(C) No. 3470 of 2022,**  
**W.P.(C) No. 3581 of 2022**

**&**

**CONTC No. 61 of 2017**

In the matter of applications under Articles 226 and 227 of the Constitution of India and under Section 12 of the Contempt of Court's Act.

**AFR**

**W.P.(C) No. 18659 of 2016**

Subrata Narayan Das and ..... Petitioners  
others

-Versus-

State of Odisha and others ..... Opposite Parties

For Petitioners : Mr. Budhadev Routray,  
Sr. Advocate along with  
M/s. S.K. Sahu, S. Jena,

K. Mohanty,  
S.D. Routrary, R.P. Dalai,  
S.K. Samal, S.P. Nath  
and S. Das, Advocates  
For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. S.J. Mohanty  
Advocate (O.Ps. 2 & 3)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A.K. Mahana,  
A. Mishra and A. Parija,  
Advocates (O.P. 4)

**W.P.(C) No. 18660 of 2016**

Subrata Narayan Das and ..... Petitioners  
others  
-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioners : Mr. Jagannath Patnaik,  
Sr. Advocate along with  
M/s. Biplab Mohanty,  
S. Patnaik,  
T.K. Pattnayak,  
A. Patnaik,  
B.S. Rayaguru  
Mohapatra, Advocates  
For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. S.J. Mohanty  
Advocate (O.Ps. 2 & 3)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A.K. Mahana,  
A. Mishra and A. Parija,  
Advocates (O.P.4)

**W.P.(C) No. 18661 of 2016**

Bhaktishree Nayak and ..... Petitioners  
others

-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioners : Mr. Manoj Mishra,  
Sr. Advocate along with  
M/s. Tanmay Mishra,  
J. Sahoo, D.K. Patnaik,  
Advocates

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. S.J. Mohanty  
Advocate (O.Ps. 2 & 3)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A.K. Mahana,  
A. Mishra and A. Parija,  
Advocates (O.P.4)

**W.P.(C) No. 31231 of 2011**

Sasmita Choudhury ..... Petitioner

-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. G.S. Namtoar,  
A. Dung Dung, R.L. Kar,  
Advocates.

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)

**W.P.(C) No. 269 of 2022**

Sasmita Choudhury ..... Petitioner

-Versus-

State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. G.R. Sethi and B.K. Pattanaik, Advocates

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija, &  
S. Bose, Advocates  
(O.P.2)

**W.P.(C) No. 1998 of 2022**

Sudhir Kumar Mahanta ..... Petitioner

-Versus-

State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. Saswat Das &  
A. Mohanty, Advocates.

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 &3)

**W.P.(C) No. 1999 of 2022**

Subidita Nanda ..... Petitioner

-Versus-

State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. Saswat Das &  
A. Mohanty, Advocates.

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 &3)

**W.P.(C) No. 2001 of 2022**

Anjana Mohanta ..... Petitioner

-Versus-

State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. Saswat Das &  
A. Mohanty, Advocates.  
For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 &3)

**W.P.(C) No. 2003 of 2022**

Mitali Panda ..... Petitioner

-Versus-

State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. Saswat Das &  
A. Mohanty, Advocates.  
For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with

M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 &3)

**W.P.(C) No. 2004 of 2022**

Debasish Mohanta ..... Petitioner  
-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. Saswat Das &  
A. Mohanty, Advocates.

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 &3)

**W.P.(C) No. 2005 of 2022**

Debi Prasad Sahoo ..... Petitioner  
-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. Saswat Das &  
A. Mohanty, Advocates.

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 &3)

**W.P.(C) No. 2006 of 2022**

Kirti Ranjan Panda ..... Petitioner  
-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. Saswat Das &  
A. Mohanty, Advocates.  
For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 &3)

**W.P.(C) No. 2087 of 2022**

Madhumita Pal ..... Petitioner  
-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioner : Mr.D.K.Sahoo 1,  
Advocate.  
For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1&2)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.3 &4)

**W.P.(C) No. 2090 of 2022**

Subrata Narayan Das ..... Petitioner  
-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioner : Mr. Budhadev Routray,  
Sr. Advocate along with  
M/s. S.D. Routrary,  
S. Sekhar, J. Biswal &  
M.Panda, Advocates.

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1&2)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.3 & 4)

**W.P.(C) No. 2093 of 2022**

Dr. Ranjan Kumar ..... Petitioner  
Mohapatra

-Versus-

State of Odisha and others ..... Opposite Parties

For Petitioner : M/s. S.D. Routrary,  
S. Sekhar, J. Biswal &  
M.Panda, Advocates.

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1&2)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.3 & 4)

**W.P.(C) No. 2139 of 2022**

Sephali Mohanty ..... Petitioner

-Versus-

State of Odisha and others ..... Opposite Parties



For Petitioner : Dr. Purushottam Chuli &  
P. Nath, Advocates.  
For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 &3)

**W.P.(C) No. 2209 of 2022**

Bhaktishree Nayak & ..... Petitioners  
Others  
-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioner : M/s.T.Mishra,  
D.K. Patnaik &  
S.S. Parida Advocates.  
For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 & 3)

**W.P.(C) No.3470 of 2022**

Sanjit Kumar Barik ..... Petitioner  
-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioner : M/s D.N. Rath, A.K. Saa,

For Opposite Parties : & S.S. Rath, Advocates.  
: Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra, A.  
Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 & 3)

**W.P.(C) No.3581 of 2022**

Santosh Kumar Panda ..... Petitioner  
-Versus-  
State of Odisha and others ..... Opposite Parties

For Petitioner : M/s D.N. Rath, A.K. Saa,  
& S.S. Rath, Advocates.  
For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocates  
(O.P.1)  
: Mr. Subir Palit,  
Sr. Advocate along with  
M/s. A. Mishra,  
A. Kejriwal, A. Parija &  
S. Bose, Advocates  
(O.Ps.2 & 3)

**CONTC No.61 of 2017**

Subrat Narayan Das and ..... Petitioners  
others  
-Versus-  
Prof. Dr. Shyam Sundar ..... Opposite Parties  
Patnaik and others

For Petitioners : Mr. B.D. Routray, Sr.  
Advocate along with M/s

S. Das, R.P. Dalai.  
K. Mohanty, S.Jena,  
S.K Samal & S.P. Nath  
Advocates.

For Opposite Parties : Mr. J.P. Patnaik,  
Government Advocate  
(O.P.1)

P R E S E N T:

**THE HONOURABLE DR. JUSTICE B.R.SARANGI  
AND  
THE HON'BLE MR. JUSTICE V. NARASINGH**

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**DECIDED ON: 12.07.2022**

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**DR. B.R. SARANGI, J.** Of the nineteen Writ Petitions, as mentioned above, W.P.(C) No. 18659 of 2016 has been filed by the applicants in O.A. No. 2176 (C) of 2014, whereas W.P.(C) No. 18660 of 2016 has been filed by the applicants in T.A. No. 7 (C) of 2016 and W.P.(C) No. 18661 of 2016 has been filed by the applicants in O.A. No. 2177 (C) of 2016. In these three Writ Petitions, the Petitioners have assailed the advertisement dated 26.02.2014 issued by Opposite Party No.4 as well as the common order dated 03.10.2016 passed by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in the aforementioned Original Applications, which have been

respectively marked as Annexure-12 and Annexure-15 to W.P.(C) No. 18659 of 2016. The Petitioners have also prayed for quashing of Clauses-2 and 3 of the Notification dated 04.01.2011 issued by the Government of Orissa, Industries Department under Annexure-10 to W.P.(C) No. 18659 of 2016, since the same is contrary to Article 320 of the Constitution of India and OPSC (Limitation of Functions) Regulations, 1989; and to direct the Opposite Parties to regularize their service against the posts in which they have been continuing and to grant all consequential service as well as financial benefits, as due and admissible to them in accordance with law.

2. CONTC No. 61 of 2017, listed with the above three Writ Petitions, was filed alleging violation of the interim order passed by this Court. Since the main issue is going to be decided in the above three Writ Petitions, learned counsel appearing for the Petitioners of the Contempt Petition submits that they do not want to press the Contempt Petition, which is accordingly disposed of.

3. In course of hearing, it was brought to the notice of this Court that challenging the advertisement on similar counts, the Petitioners of the above three Writ Petitions have also filed number of Writ Petitions, i.e. W.P.(C) No. 1998 of 2022 and batch, and accordingly on 28.06.2022, this Court passed the following order :-

**“W.P.(C) No.18659 of 2016, W.P.(C) No.18660 of 2016 & W.P.(C) No. 18661 of 2016**

*This matter is taken up through hybrid mode.*

2. *Heard Mr. B. Routray, learned Senior Counsel appearing along with Mr. S. Sekhar, learned counsel for the Petitioners in W.P.(C) No.18659 of 2016; Mr.J. Pattnaik, learned Senior Counsel appearing for Mr. A. Pattnaik, learned counsel for the Petitioner in W.P.(C) No.18660 of 2016; Mr. M. Mishra, learned Sr. Counsel appearing along with Mr. T. Mishra, learned counsel for the Petitioner in W.P.(C) No.18661 of 2016; Mr. S. Palit, learned Senior Counsel appearing for the College; Mr. S.J. Mohanty, learned counsel appearing for BPUT and Mr. A.K. Mishra, learned Additional Government Advocate.*

3. *After some arguments were advanced, it is brought to the notice of this Court that challenging the very same advertisement, the Petitioners have filed W.P.(C) No.1998 of 2022 and batch of cases, wherein this Court granted interim order and subsequently the Government has withdrawn the advertisement.*

4. *As prayed for by learned counsel for the parties, put up this matter next week along with W.P.(C) Nos. 269, 1998, 1999, 2001, 2003, 2004, 2005, 2006, 2087, 2090, 2093, 2139, 2209, 3470, 3581 & 10931 of 2022.*

5. *Additional affidavit filed on behalf of opposite party no.4-Govt. College of Engineering, Keonjhar be kept on record.”*

Pursuant to such order, the connected matters have been listed today. But at the outset, learned Counsel appearing for the Petitioners in all those Writ Petitions contended that since the advertisements under challenge have been withdrawn, no cause of action subsists to be adjudicated in those Writ Petitions. Accordingly the connected Writ Petitions, i.e. W.P.(C) No. 31231 of 2011 and W.P.(C) Nos.269, 1998, 1999, 2001, 2003, 2004, 2005, 2006, 2087, 2090, 2093, 2139, 2209, 3470 and 3581 of 2022, are disposed of as not pressed.

4. In view of the above, only three Writ Petitions, viz., W.P.(C) Nos. 18659, 18660 and 18661 of 2016 remain for adjudication. Since issue involved in all these three Writ Petitions is one and same and the advertisement, notification and the order passed by the Tribunal, which are under challenge in these three Writ Petitions, are common, they are heard together and

disposed of by this common order on the consent of the parties.

5. For just and proper adjudication of the case, the factual matrix of W.P.(C) No. 18659 of 2016 is taken into consideration.

5.1 In the 5<sup>th</sup> meeting of the Board of Governors, Orissa College of Mining and Engineering, Keonjhar held on 14.12.2005 it was decided to create 14 number of posts in different disciplines, by prescribing qualification for such posts, with consolidated remuneration of Rs.8000/-, after taking prior approval from the Sub-Committee through a Selection Board. At that time, the Institution was running under self-sustaining mode and was managed by Board of Governors. Pursuant to such decision, an advertisement was issued on 15.01.2006 in local daily newspaper "*The Samaj*" inviting applications for appointment of Resource Persons in different disciplines. The Scrutinizing Committee, after scrutinizing the application forms, called the Petitioners on 16.02.2006 to face the interview held on different dates

and the Commissioner-Cum-Director, Technical Education & Training, Odisha was appointed as the representative of Govt. of Odisha of the Selection Committee. The 7<sup>th</sup> Board of Governors meeting was held on 29.06.2006, in which it was resolved for creation of essential posts and it was further decided to enhance the remuneration of Resource Persons from Rs.8000/- to Rs.10,000/- and the post of Resources Persons were converted to Lecturers (Contractual). It was also decided to give preference to the experienced and existing staff continuing on contractual basis under the Degree Stream. Another advertisement was issued on 24.07.2006 in daily local newspaper "*The Samaja*" inviting applications for appointment of Resource Persons on contractual basis at consolidated remuneration of Rs.8000/-. The Petitioners were duly selected and were issued with appointment orders. At this point of time, on 15.12.2006, Opposite Party No. 4-Institution was declared as a Constituent College of BPUT in exercise of the powers conferred under Section-37(1) of the BPUT Act, 2002.



5.2 Pursuant to another advertisement dated 08.09.2008 for appointment of Lecturers in different disciplines, the Petitioners offered their candidatures and they were duly selected through interview and were engaged as Lecturers in different disciplines.

5.3 The Odisha School of Mining Engineering, Opposite Party No.4 was converted to a fully fledged Govt. Engineering College on 04.01.2011 with effect from the academic session 2011-12. An advertisement was issued on 19.08.2011 for filling up of the teaching posts in different disciplines on regular basis against the posts in which the Petitioners were continuing. Challenging the advertisement dated 19.08.2011 the Petitioners filed W.P.(C) No. 24616 of 2011.

5.4 This Court issued notice and passed an interim order on 21.09.2011 directing the opposite parties not to appoint anybody against the post held by the Petitioners.

5.5 Another advertisement was issued on 26.02.2014 to fill up the posts of Lecturers in different

disciplines on regular basis, including the posts against which the Petitioners were continuing, despite the above interim order. Challenging the raid advertisement dated 26.02.2014 the Petitioners again filed W.P.(C) No.5455 of 2014, but since the posts held by the Petitioners had become civil post, the Writ Petition was allowed to be withdrawn vide order dated 15.07.2014 with liberty to approach the Orissa Administrative Tribunal. As a result, the Petitioners filed an Original Application bearing O.A. No.2176 (C) of 2014 before the Orissa Administrative Tribunal, Cuttack Bench, Cuttack challenging the advertisement dated 26.02.2014 with a further prayer to direct the Opposite Parties to take necessary steps for regularization of their service.

5.6 The Tribunal, vide order dated 30.07.2014, while issuing notice to the Opposite Parties, passed an interim order to the effect that the process of selection may continue but no appointment order shall be issued without the leave of the Tribunal. W.P.(C) No.24616 of

2011 was transferred and re-numbered as T.A. No. 7 (C) of 2016.

5.7 On 09.07.2015, the Tribunal was pleased to modify the interim order dated 03.07.2014 to the extent that the Opposite Parties may proceed with recruitment process and issue appointment order to fill up the posts, other than the posts held by the Petitioners and such posts shall be kept reserved subject to result of the Original Application. In the meantime, vide order dated 06.08.2015, the service of the non-teaching staff of the Institution were regularized w.e.f. 07.09.2013 against Group-C and Group-D posts, whereas the Petitioners were deprived of such benefits. The Tribunal dismissed O.A No. 2176 (C) of 2014 and batch of cases, vide order dated 03.10.2016, with an observation that it is the wisdom of the Government to take one-time policy decision for regularization of the Petitioners. On 10.04.2016, the Lecturer (Contractual) was re-designated as Assistant Professor (Contractual). A notification was issued by the Government on 21.01.2021, by virtue of

which the Government Engineering College, Keonjhar was allowed to function independently with their respective Board of Governors, upon transfer of management of the Institution from BPUT. Again another advertisement was issued by the Government Engineering College, Keonjhar on 20.12.2021 for recruitment of regular Assistant Professor, including the posts against which the Petitioners were continuing. The Petitioners filed individual Writ Petitions before this Court bearing W.P.(C) No. 2090 of 2022 and batch challenging the advertisement dated 20.12.2021 and this Court, after hearing the parties, issued notice and passed an interim order directing the Opposite Parties not to fill up the advertised posts against which the Petitioners are continuing. Subsequently, on 06.04.2022, the Government College of Engineering, Keonjhar withdrew the advertisement dated 20.12.2021. By virtue of the office Order dated 19.05.2022, the designation of Assistant Professor (Contractual) was changed to Lectures (Contractual).

6. Needless to mention here, the Order passed by the Tribunal dated 03.10.2016 dismissing the O.A. No. 2176 (C) of 2014 and batch with the observation that it is the wisdom of the Government to take one-time policy decision for regularization of the service of the Petitioners has been challenged in these present Writ Petitions.

7. Mr. Budhadev Routray, learned Senior Advocate appearing along with Mr. S. Sekhar, learned counsel for the Petitioners in W.P.(C) No.18659 of 2016 vehemently contended that the initial appointment of the Petitioners was made keeping in view the AICTE norms with prior approval of the University, namely, BPUT as well as the State Govt. As such, the State Government had constituted a selection committee on 16.02.2006 and accordingly, a committee, namely, Scrutinizing Committee was constituted for scrutiny in terms of the guidelines of the University and accordingly the entire process of selection and the initial appointments were made keeping in view the guidelines and in consultation with the then Vice Chancellor of the BPUT. The Institution was then

running under self sustaining mode and was managed by Board of Governors. All these Petitioners were selected through a transparent method of selection and subsequently all of them joined on contractual basis before the BPUT Act came into force. All interviews were done as per the direction of the then Vice-Chancellor, BPUT in consultation with the State Govt.

7.1 It is further emphatically submitted that the Petitioners are discharging duties against their respective posts- both academic and non-academic- and by now they have completed about 16 years of service in their respective posts. So far as the status of the Petitioners' College is concerned, though initially the Institution was running in self sustaining mode, but subsequently was taken over by the BPUT and was declared as Constituent College. But, in the meantime, the College has again been taken over by the State Government with independent Board of Governors and now BPUT having no role to play in management of day-to-day affairs of the College. As such, BPUT statute is not at all applicable for recruitment

of Petitioners, rather the Board of Governors, which is now the Apex Body in the matter of recruitment of teaching and non-teaching faculties of the Institution, has to take a call for regularization of the service of the Petitioners taking into consideration the length of service rendered by the Petitioners.

7.2 It is further contended that the Petitioners joined the College before the College was taken over by BPUT and appointments were made as per the AICTE, as well as UGC norms with prior approval of the BPUT, and the State Government had played pivotal role for formation of Selection Committee and Scrutinizing Committee as per the guidelines prevailing at that point of time, which is also not disputed by the University. It is also contended that similar contractual Resource Persons of different Government Polytechnics had approached the Tribunal for regularization of their service and the Tribunal directed to take a decision in the matter of regularization as one-time measure and, accordingly, the State Government has taken a decision for regularization

of such Resource Persons, who were initially appointed on contractual basis like that of the present Petitioners. Thereby, it is contended that since the State Government has already taken a decision in the matter of regularization of Contractual Resource Persons of different Government Polytechnics, there is no reason as to why the Petitioners will be discriminated in the matter of regularization.

7.3 According to learned Counsel for the Petitioners, considering the status of the present Petitioners, since their initial appointments were made against Group-B posts, the services of the Petitioners could have been regularized, after completion of six years of service, against respective posts in terms of the prevailing Rules and as per the norms of the UGC and AICTE. Therefore, it is contended that until the Institution was declared as the Constitute College of BPUT with effect from 15.12.2006, all selections and appointments to both teaching and non-teaching posts were carried out by the Opposite Party No.4-Institution, through the Board of



Governors by constituting the Selection Committees for that purpose. The Selection Committees consisted of the Vice-Chancellor, BPUT, the Commissioner-cum-Secretary and Commissioner-cum-Director of Industries Department and Director of Technical Education and Training along with three subject experts as Members for the said Committee. The Committee so constituted selected the Petitioners by virtue of the interview conducted at different spells of time in a transparent manner through open advertisement following the constitutional mandate of Articles 14 and 16 of the Constitution of India. Therefore, denial of regularization of service amounts to arbitrary and unreasonable exercise of power. According to him, the Tribunal has failed to consider the same in its proper perspective, while passing the order impugned, which cannot be sustained in the eye of law.

7.4 It is also contended that the Petitioners have sought information under Right to Information Act, 2005 (for short "RTI, Act) and, accordingly, the information was

provided that most of the Petitioners are in fact continuing against the vacant sanctioned posts of Lecturer (now Assistant Professor), from the date of their initial appointment. This position was revealed from the information obtained under RTI, Act dated 31.10.2017 and the letter of the Principal of the Institution dated 03.09.2009 showing the staff position of the Institution. Thus, there is no valid and justifiable reason not to regularize the services of the Petitioners. Thereby, the action of the Opposite Parties in utilizing the service of the Petitioners for years together and denying them the benefit of regularization is not only illegal and arbitrary, but also exploratory.

7.5. It is further contended that similar question had come up before the Single Bench of this Court for consideration in **Dr. Prasanna Kumar Mishra v. State of Orissa and others** (W.P.(C) No. 11148 of 2005), which was decided, vide judgment dated 01.12.2015, by one of us (Dr. Justice B.R. Sarangi). This Court disposed of the said Writ Petition directing the Opposite Parties to absorb

the Petitioner on regular basis against a sanctioned vacant post taking into account the length of service rendered by him as a Lecturer in Mathematics in which he was continuing without insisting him to undergo the rigors of the selection procedure laid down under the BPUT Act and the Rules framed thereunder, since by that time the Petitioner had become overaged and on consideration of materials on record, this Court came to the finding that he had also been exploited for 20 years for no reasons, though he had qualified in all the interviews conducted by the Authority for his engagement on contractual basis. It was also directed that the Petitioner being not a backdoor entrant to the service, the Opposite Party-University should extend all consequential benefits, as due and admissible in accordance with law, as expeditiously as possible preferably within a period of four months.

7.6 Assailing the said judgment of the learned Single Judge, BPUT preferred W.A. No. 4 of 2006 before the Division Bench, wherein the order of the learned

Single Judge was confirmed. Thereafter, Special Leave to Appeal (C) No. 4945 of 2020 was preferred by the BPUT and the apex Court, vide order dated 07.08.2020, dismissed the Special Leave to Appeal. Therefore, applying the ratio decided in the said case, which is binding on the parties to the present case, the benefits should have been extended to the Petitioners. The order of the apex Court is taken on record.

8. Mr. Jagananth Patnaik, learned Senior Advocate appearing along with Ms. Soma Patnaik, and Mr. Manoj Mishra, learned Senior Advocate appearing along with Mr. T. Mishra, learned counsel for the Petitioners in the connected two Writ Petitions contended that they adopt the arguments already advanced by Mr. B. Routray, learned Senior Advocate appearing for the Petitioners in W.P.(C) No.18659 of 2016 and they have nothing more to add to such submissions.

9. Mr. J. P. Patnaik, learned Government Advocate appearing for State Opposite Parties contends that since the Petitioners were engaged by the Board of

Governors of the Opposite Party No.4 on contractual basis, it is a matter between the Petitioner and Opposite Party No.4. The State being the Regulating Authority had issued the guidelines, the same are applicable to the Petitioners.

10. Mr. S.J. Mohanty, learned Counsel appearing for the BPUT contended that initially the Institution was under the management of Board of Governors, but, subsequently though it was taken over by the BPUT, now again it has been reverted back to the Board of Governors. Therefore, the BPUT has no role to play on this issue.

11. Mr. Subir Palit, learned Senior Advocate appearing along with Mr. A. Mishra, learned counsel for Opposite Party No.4-College, though admitted that the Petitioners were appointed on contractual basis for a period of one year by following due process of selection, but contended that they were appointed for a fixed tenure and, as such, there was no stipulation in the agreement that their services will be regularized and the letter of

engagement clearly stipulates that they will have no right or claim for regular appointment to any regular post, basing on the engagement and, as such, the engagement order also clearly indicates that the engagement was purely on contractual basis as a Resource Person. Therefore, the Petitioners cannot claim for regularization of their services. As the Petitioners and others were allowed to continue in service, by virtue of the orders of this Court, and the appointment of the Petitioners was for a fixed term and there is no specific provision either under the BPUT Act or under the 1<sup>st</sup> Statute, 2006 regarding regularization of contractual appointment, the prayer of the Petitioners for regularization is liable to be rejected.

11.1 It is further contended that the Board of Governors had never committed or intimated that the case of the Petitioners will be considered with relaxation of AICTE/UGC eligibility norms. Since the Petitioners were engaged in 2008, i.e., after the College was taken over by the BPUT during the year 2006, by that time the

Board of Management of BPUT had already come into force. It is also contended that the Petitioners were not selected in accordance with the 1<sup>st</sup> Statute process by the Selection Committee of the University. Out of 12 Petitioners, 07 joined between 2006 and 2008 through Walk-in-Interview and rest 05 joined for the first time in the year 2009 through Walk-in-Interview on contractual basis. The Petitioners have misquoted the BPUT 1<sup>st</sup> Statute, which is not applicable to the selection of the present Petitioners. When the advertisement was issued by the BPUT on 19.08.2011 for 17 number of Lecturers/ Assistant Professors posts, the Petitioners filed W.P.(C) No. 24616 of 2011 and this Court passed the interim order. Accordingly, no appointment for the posts of Lectures was done by the University in terms of the said advertisement. Another advertisement was issued on 26.02.2014, as per the Government Order dated 25.05.2013, for rest 8 posts along with additional sanctioned posts, which was also challenged by the Petitioners in O.A. No. 2176 (C) of 2014, O.A. No.2177 (C) of 2014 and T.A. No. 7 (C) of 2016 before the Tribunal

seeking to quash the advertisement and to regularize their services, but the Tribunal dismissed the Original Applications and left it open to the Government to take necessary decision for regularization, as one-time measure.

11.2 It is further contended that the Opposite Party-College being a Constituent College, the OPSC cannot be delegated with the power of appointment and appointments were made purely on contractual basis for a fixed term and there is no provision either under the BPUT Act or under the 1<sup>st</sup> Statute, 2006 regarding regularization of contractual appointment. Therefore, the grievance of the Petitioners merits no consideration. After dismissal of the Original Applications, appointment orders were issued in favour of the selected candidates pursuant to the advertisement dated 26.02.2014.

11.3 A further stand is taken that the Odisha School of Mining Engineering, Keonjhar was taken over as a Constituent College, as per the Notification No.2997 dated 15.12.2006 under Section 37 of the BPUT Act, 2002 and,



therefore, the Institution is regulated under the BPUT Act, 2002 and its Statute. As such, the appointments are governed under the said Act and Statute, which provides for the procedure for appointment of Teachers and under Section 18 (vii) of the BPUT Act, 2002, the Board constituted under Section 17 of the Act is empowered to appoint teachers.

11.4 To substantiate his contention, he has relied upon the decision in the case of **Secretary State of Karnataka v. Umadevi**, (2006) 4 SCC 1 and contended that claim of the Petitioners for regularization cannot be sustained and, thereby, the Tribunal is well justified in passing the order impugned, which does not require interference by this Court.

12. This Court heard Mr. Budhadev Routray, learned Senior Advocate appearing along with Mr. S. Sekhar, learned counsel for the Petitioners in W.P.(C) No. 18659 of 2016, as well as Mr. Jagannath Patnaik, learned Senior Advocate appearing along with learned counsel Ms. S. Patnaik, and Mr. Manoj Mishra, learned Senior

Advocate appearing along with Mr. T. Mishra, learned counsel for the Petitioners in the connected W.P.(C) No. 18660 and W.P.(C) No.18661 of 2016. This Court also heard Mr. J.P. Patnaik, learned Government Advocate appearing for the State-Opposite Parties; Mr. S.J. Mohanty, learned Counsel appearing for the BPUT and Mr. Subir Palit, learned Senior Advocate appearing along with Mr. A. Mishra, learned Counsel appearing for the Odisha School of Mining Engineering, Keonjhar. This Court heard all such parties through hybrid mode and perused the records. Pleadings having been exchanged between the parties, with the consent of learned Counsel for the respective parties all these petitions are being disposed of finally at the stage of admission.

13. On the basis of the factual matrix, as delineated above, there is no dispute that the College in question was taken over as a Constituent College of BPUT or was declared as a Full-Fledged Government College and it was governed by the Board of Governors. The

Board shall be the Chief Executive Body and shall consist of the following members:-

*“(i) the Vice Chancellor;*

*(ii) the Secretary to Government, Industries Department;*

*(iii) the Secretary to Government, Finance Department;*

*(iv) the Secretary to Government Higher Education Department.*

*(v) the Secretary of Technical Education and Training;*

*Other Members:-*

*(vii) one person form among Director/ Deans of the University, nominated by the Vice Chancellor;*

*(viii) one principal of nay of the affiliated or constituent colleges of the University, mentioned by the Vice Chancellor;*

*(ix) two members of the academic counsel, elected by the members thereof;*

*(x) two members of the Orissa Legislative Assembly, Elected by the members thereof;*

*(xi) two persons representing Industries, both private and public Sector, nominated by the Chancellor;*

*(xii) one Professor of Director of a premier technical education institution like IIT or IIM nominated by the chancellor,*

*(xiii) one official representative of the Council nominated by it; and*

*(xiv) one member from amongst the members of Governing Bodies of affiliated Institutions, nominated by the Vice Chancellor;*

As per the decision of the Board of Governors dated 14.12.2005, advertisements were issued on 15.01.2006 and 24.07.2006 for appointment of Resource Persons on contractual basis for a period of one year with consolidated remuneration of Rs.8000/-. Accordingly, the Petitioners were selected through the Selection Committee duly constituted by the Board of Governors, by following due procedure of selection. As a consequence thereof, the Petitioners were engaged with the following terms and conditions.

*"The terms and conditions of engagement are as follows :*

- 1. The engagement will be for a period of 1 year from the date of joining.*
- 2. The appointment can be terminated by giving one month's notice without assigning any reasons.*
- 3. The Resource Persons can leave the assignment by giving one month's notice.*
- 4. He/She will take full teaching load of 16-20 Hours per week as prescribed for the post of Lecturer. Besides, he/she has to discharge all other assignments to be entrusted by the society from time to time.*
- 5. He/She will not be entitled to any benefit of Provident Fund, Pension, Gratuity, Medical attendant & treatment or any other benefits available to Govt. Servants on regular basis.*

6. *He/She will not be entitled to any benefit for House Rent Allowance or any other allowances applicable to the regular employees of the Govt. However, he/she has to pay the usual rent of quarter, if any residential accommodation is provided by the institution.*
7. *He/She will have right or claim for regular appointment to any regular post, basing on this engagement.*
8. *He/she will be on the full employment in the institution and shall not accept any other appointment or engage himself, otherwise during the contract.*
9. *He/she is entitled for casual of 15 days within a calendar year with the approval of the competent authority in addition to BPUT/University holidays. He/she is not permitted to avail any optional leave or any other leave as admissible to regular employees of the State Government.*
10. *The contract is subject to renewal on records of satisfactory performance subject to the clearance of the Board of Governors, on terms & conditions as would be determined by the Board.”*

On perusal of the aforementioned conditions, it is made clear that the engagement was for a period of one year from the date of joining. Under Clause-7 it was specifically mentioned that he/she will have no right or claim for regular appointment to any regular post, basing on that engagement. **Whereas under Clause-10 it was specified that the contract was subject to renewal on records of satisfactory performance subject to the**

**clearance of the Board of Governors, on terms & conditions as would be determined by the Board.**

Therefore, there is no dispute that even though the Petitioners were engaged for a period of one year on contractual basis, pursuant to the engagement orders issued in their favour, but their contractual appointments were renewed from time to time on being found satisfactory performance pursuant to clearance given by the Board of Governors. The continuance of the contractual employment of the Petitioners has been going on till date and in the meantime they have completed more than 16 years of service. Contention is raised that their 16 years service is because of the intervention of the Court, but, fact remains, if the Petitioners were appointed against sanctioned posts by following due process of selection and have continued as such on the basis of satisfactory performance and have discharged their duties and shouldered responsibility, in that case, taking into consideration the long service rendered by them, they cannot be deprived of getting regularization of their services. More so, while continuing, the Petitioners have

acquired the higher qualification and for that purpose, they have also been granted the revised wages, basing upon which they are being paid the remuneration. As such, nothing has been placed on record to indicate that their performance is not satisfactory. Therefore, the Tribunal has signally failed to consider this aspect in its proper perspective and, thereby, committed gross error of appreciation.

14. The Tribunal in the impugned order has relied upon the judgments of the apex Court in the case of **Secretary State of Karnataka v. Umadevi**, (2006) 4 SCC 1, **University of Rajasthan v. Premlata Agrawal**, (2013) 3 SCC 705, **Salkhan Murmu v. Union of India**, 2010 (Supp-1) OLR 687 and **Director of Institute of Management Development, UP v. Smt. Pushpa Srivastava**, AIR 1992 SC 2070. But if the facts of those cases will be taken into consideration, the same are totally different from that of the present one. The Tribunal has opined that the Petitioners have accepted the contractual appointment, executed an agreement and

given undertaking that they will not claim regularization of service, thereby denied the benefits. While saying so, the Tribunal has failed to take note of the long service rendered by Petitioners against sanctioned posts, having been appointed by following due process of selection and, as such, they are not the back door entrants. The principles, which have been laid down in the above noted cases, are only applicable where the persons are appointed without following due procedure of advertisement, selection and against non-sanctioned vacant posts. By placing reliance on the aforementioned judgments bereft of its factual matrix, the Tribunal lost sight of the cardinal principle of interpretation of judgment that a judgment is not to be read as a “Euclid’s theorem”. In this context this Court relies on the following judgments:

- (i) ***Haryana Financial Corporation v. M/s. Jagdamba Oil Mills***, (2002) 3 SCC 496.
- (ii) ***Keshav Chandra Joshi v. Union of India***, 1992 Supp. (1) SCC 272.



15. The information received under RTI Act by the Petitioners dated 31.10.2017 and the letter of the Principal of the Institution dated 03.09.2009 with regard to the staff position of the Institution, clearly indicate that the Petitioners are continuing against sanctioned posts on being engaged by following due procedure and in a transparent manner, pursuant to the advertisement for recruitments against vacant posts. **It is apt to mention here that even after the engagement, the Petitioners were permitted to go for acquisition of higher qualification and as such they have now been qualified to hold the post regularly.** As a consequence thereof, they cannot be denied the benefit of regularization on some plea or other.

16. Much reliance has been placed on Paragraph-53 of **Umadevi** (supra). In Paragraph 53 of the said judgment, the apex Court has held as follows:

*“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S. V. Narayanappa, R. N. Nanjundappa and B. N. Nagarajan and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years*

*or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the state Governments and their instrumentalities should take steps to regularise as a non-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”*

The object behind the exception carved out in the above noted case was to permit regularization of such appointments, which were irregular but not illegal, and to ensure security of employment of those persons who served the State Government and their instrumentalities for more than ten years.

17. Similar question had come up for consideration before the apex Court in Civil Appeal No. 2835 of 2015 (arising out of SLP (Civil) No. 20169 of

2013) which was disposed of vide judgment dated 13.3.2015. In paragraphs 12 and 13 of the judgment, the apex Court held as follows:

*"12. Elaborating upon the principles laid down in Umadevi's case (supra) and explaining the difference between irregular and illegal appointments in State of Karnataka & Ors. v. M.L. Kesari & Ors., (2010) 9 SCC 247, this Court held as under:*

*"7. It is evident from the above that there is an exception to the general principles against "regularisation" enunciated in Umadevi (3), if the following conditions are fulfilled:*

*(i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.*

*(ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular."*

*13. Applying the ratio of Umadevi's case, this Court in Nihal Singh & Ors. v. State of Punjab & Ors., (2013) 14 SCC 65 directed the absorption of the Special Police Officers in the services of the State of Punjab holding as under:*

*"35. Therefore, it is clear that the existence of the need for creation of the posts is a*

relevant factor with reference to which the executive government is required to take rational decision based on relevant consideration. In our opinion, when the facts such as the ones obtaining in the instant case demonstrate that there is need for the creation of posts, the failure of the executive government to apply its mind and take a decision to create posts or stop extracting work from persons such as the appellants herein for decades together itself would be arbitrary action (inaction) on the part of the State.

36. The other factor which the State is required to keep in mind while creating or abolishing posts is the financial implications involved in such a decision. The creation of posts necessarily means additional financial burden on the exchequer of the State. Depending upon the priorities of the State, the allocation of the finances is no doubt exclusively within the domain of the legislature. However in the instant case creation of new posts would not create any additional financial burden to the State as the various banks at whose disposal the services of each of the appellants is made available have agreed to bear the burden. If absorbing the appellants into the services of the State and providing benefits on a par with the police officers of similar rank employed by the State results in further financial commitment it is always open for the State to demand the banks to meet such additional burden. Apparently no such demand has ever been made by the State. The result is-the various banks which avail the services of these appellants enjoy the supply of cheap labour over a period of decades. It is also pertinent to notice that these banks are public sector banks."

18. In **Binan Kumar Mohanty & others v. Water & Land Management Institute (WALMI) & others**, 2015

(1) OLR 347, referring to ***Kapila Hingorani v. State of Bihar***, (2003) 6 SCC 1, the apex Court held that the Government Companies/Public Sector Undertakings being “States” would be constitutionally liable to respect life and liberty of all persons in terms of Article 21 of the Constitution of India. Therefore, since the Petitioner had rendered service for around 20 years, keeping in view the ratio decided in ***Kapila Hingorani*** (supra), the apex Court issued direction to the opposite parties to mitigate the hardship of the employees. Financial stringency is no ground for not issuing requisite directions when there is violation of fundamental rights of the Petitioner. Allowing a person to continue for a quite long period of 20 years of service and exploiting him on the pretext of financial crunch in violation of Article 21 of the Constitution of India is sheer arbitrariness of the authority which is highly condemnable.

19. In ***Narendra Kumar Ratha v. State of Orissa***, 2015(1) OLR 197, this Court took into consideration the object of Article 16 of the Constitution of India to create a

constitutional right to equality of opportunity and employment in public offices and held that the word 'employment' or 'appointment' cover not merely the initial appointment, but also other attributes like salary, increments, revision of pay, promotion, gratuity, leave pension and age of superannuation etc. Appointment to any post under the State can only be made in accordance with the provisions and procedure envisaged under the law and guidelines governing the field.

20. In **Prabodh Verma v. State of U.P.**, (1984) 4 SCC 251, the apex Court held that Article 16 is an instance of the application of the general rule of equality laid down in Article 14, with special reference to the opportunity for appointment and employment under the Government.

21. Similar view has also been taken by the apex Court in **Km. Neelima Mishra v. Harinder Kaur Paintal**, (1990) 2 SCC 746 : AIR 1990 SC 1402 and **E.P. Royappa v. State of Tamilnadu**, (1974) 4 SCC 3. It was held that Clause-1 of Article-16 guarantees equality of

opportunity for all citizens in the matters of employment or appointment to any office under the State. The very concept of equality implies recourse to valid classification for preference in favour of the disadvantaged classes of citizens to improve their conditions so as to enable them to raise themselves to positions of equality with the more fortunate classes of citizens. This view has also been taken note of by the apex Court in the case of **Indra Sawhney and others v. Union of India and others**, 1992 Supp. (3) SCC 217 : AIR 1993 SC 477.

22. In view of such position, if the Petitioners have been allowed to continue for a quite long period on contractual basis, due to financial crunch, they cannot be thrown out stating that they were not recruited as per the provisions of BPUT Act and the Rules framed thereunder. Therefore, the Petitioners' case should be taken into consideration for regularization of their services.

23. On the basis of the materials available on record, this Court is of the firm view that the Petitioners were engaged against sanctioned posts by following due

process of selection, pursuant to the advertisements issued. And, because of satisfactory performance, even though they were appointed for a period of one year, their services have been extended time to time and in the meantime, they have gained experience of more than 16 years. The contention raised that because of the interim order passed by this Court, they have been allowed to continue, does not stand to reason, in view of the fact that once the Petitioners are continuing against sanctioned posts, if the advertisements were issued for filling up those posts, the Court, having considered the gravity of the issue, passed interim orders protecting the interest of the Petitioners and, ultimately, the Authorities themselves have withdrawn those advertisements realizing the fact that the Petitioners are continuing against those posts. Therefore, the contention that by virtue of the interim orders they have been continuing, cannot have any justification, rather, the Opposite Party No.4 has tried to exploit the Petitioners. In the circumstances, a right has already accrued in favour of the Petitioners for seeking regularization of their services.



The Petitioners' right to seek for regularization of services, cannot be set at naught by relying on a clause that they cannot ask for regularization. In the considered view of this Court scion clause is a Henry VIII clause, smacks of arbitrariness and hence such arbitrary clause cannot be sustained in the eye of law.

24. Mr. S. Palit, learned Senior Advocate laid emphasis on the judgment of the apex Court in ***Union of India v. N. Murugesan***, (2022) 2 SCC 25 and contended that the provisions of Contract Act, 1872 and principle of approbate and reprobate are applicable to the present case. This Court is of the considered view that the principle, which has been referred to, is applicable to the facts and circumstances of that case only, as because in that case an advertisement was made to fill up the post of Director General either by direct recruitment or on deputation in tune with Central Power Research Institute (Pay, Recruitment and Promotion) Rules, 1989. The respondent had applied for the said post being eligible to be appointed on direct recruitment. The approval for

appointment of respondent was given for an initial tenure of five years or until further orders, with a further direction that the respondent would be eligible for re-appointment for a further term up to the date of his superannuation. On finding his tenure coming to an end, the respondent submitted a representation after about four years and nine months from the date of his joining, taking a stand that since his appointment was made by way of direct recruitment, he should be treated as a regular employee and therefore, to be continued till the date of his superannuation.

25. The factual matrix of the judgment, as referred to above, being distinguishable from that of the Present Petitioners, on the basis of the ratio decided by the apex Court, as mentioned in the foregoing paragraphs, the Petitioners' service should have been regularized. But the Tribunal, without considering the case of the Petitioners in proper perspective, has come to an erroneous conclusion and dismissed the Original Applications filed by the Petitioners.

26. In view of the facts and law, as discussed above, this Court is of the considered view that the order dated 03.10.2016 passed by the Tribunal cannot be sustained in the eye of law and is liable to be quashed and hereby quashed.

27. Consequentially, this Court is of the considered view that the Opposite Parties should absorb the Petitioners on regular basis against sanctioned vacant posts taking into account the length of service rendered by them in their respective posts, in which they are continuing, without insisting upon them to undergo the rigors of the selection procedure, since they were engaged by following due process of selection in a transparent manner conducted by the Authority through the selection committee on contractual basis and are continuing for more than 16 years. The Petitioners being not backdoor entrants to the service and admittedly their performance having been found to be satisfactory for more than a decade and half, Opposite Party No.4 should extend all consequential benefits, as due and admissible in

accordance with law, as expeditiously as possible, preferably within a period of four months. Ordered accordingly.

28. W.P.(C) Nos. 18659, 18660 and 18661 of 2016 are thus allowed. No order as to costs.

.....  
**DR. B.R. SARANGI,**  
**JUDGE**

**V. NARASINGH, J.**

I agree.

.....  
**V. NARASINGH,**  
**JUDGE**

**Orissa High Court, Cuttack** संसदिक् नयरो  
**The 12<sup>th</sup> July, 2022, Arun/GDS**