

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 2686 of 2022

Nimai Padhan

.....

Petitioner

Mr.K. Swain, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

28.01.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard learned counsel for the parties.

3. Learned counsel for the petitioner states that the petitioner has been continuing as a DLR employee under the Rural Development Department, Odisha, but till date they have not been regularized, although more than 25 years have passed in the meantime. He has referred to the case of *State of Karnataka v. Umadevi*, 2006(4) SCC 1, wherein in paragraph 53 the apex Court has held that the State Governments and their instrumentalities should take steps to regularize as a one-time measure the services of such irregularly appointed who have worked for ten years or more in duly sanctioned posts. Similar view has also been taken by the apex Court in *State of Karnataka and others v. M.L.Keshari and others*, 2010(II) OLR (SC) 982, wherein in paragraph 7 the apex Court has held as follows :

“7. It is evident from the above that there is an exception to the general principles against ‘regularization’ enunciated in Umadevi 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.*

4. In that view of the matter, since the petitioner is continuing as DLR employee under the Rural Development Department, Odisha and completed 25 years of service in the meantime and even though his appointment is irregular he should be regularized in service in view of the judgments of the apex Court in ***Umadevi*** and ***M.L.Keshari*** (supra), as well as ***Amarkanti Rai v. State of Bihar and others***, (2015) 8 SCC 265.

5. In view of such position, the opposite parties are directed to regularize the services of the petitioner within a period of three months from the date of passing of this order.

6. With the aforesaid observation and direction the writ petition is allowed.

7. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(DR. B.R. SARANGI)

JUDGE

