

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 8717 of 2014

Purna Chandra Pattnaik

.....

Petitioner
Mr. B. Barik, Adv.

Vs.

State of Orissa and others

.....

Opposite Parties
Mr. S. Rath, ASC

CORAM:

DR. JUSTICE B.R. SARANGI
MR JUSTICE S.K. MISHRA

ORDER

29.06.2022

Order No.
09.

This matter is taken up by hybrid mode.

2. Heard Mr. B. Barik, learned Counsel for the Petitioner and Mr. S. Rath, learned Addl. Standing Counsel for the State-Opposite Parties.

3. The Petitioner has filed this Writ Petition assailing the order dated 31.10.2013 passed in O.A. No. 621 of 2010, by which the Odisha Administrative Tribunal, Principal Bench, Bhubaneswar has rejected the claim of the Petitioner for regularization of service under Work-Charged Establishment.

4. Mr. B. Barik, learned Counsel for the Petitioner contended that the Petitioner was engaged under Work-Charged Establishment and in the meantime he has retired from service on attaining the age of superannuation. The Petitioner had approached the Tribunal claiming regularization of his service, but the same was denied by the Tribunal by order impugned dated 30.10.2013. Therefore, he has approached this Court by filing the present Writ Petition.

5. Mr. S. Rath, learned Addl. Standing Counsel for the State-Opposite Parties contended that since the Petitioner was working under the Work-Charged Establishment and he has already retired from service on attaining the age of superannuation, question of regularization of his service at this stage, does not arise. It is

further contended that in view of the order dated 12.03.2013 passed in O.A. No. 879 of 2010 and batch, wherein it has been held that Work-Charged employees are not entitled to get regularization in service after their retirement, the Tribunal is well justified in passing the order impugned, 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 the Petitioner joined in the Work-Charged Establishment and retired from service on attaining the age of superannuation. Accordingly, the retirement benefits as admissible under 1974 Instructions, have been paid to him. Work-Charged Establishment is not pensionable, as per Rule-18(ii) of OCS (Pension) Rules, 1992. A person enters into service, being aware of his conditions of service, and having accepted the same, he cannot claim the benefit in a different manner later on. Law is well settled that there can be no question of regularization after retirement of a Work-Charged Employee. A Division Bench of the Tribunal after vividly analyzing the judgments of the Apex Court and of different High Courts, has disallowed several cases, vide order dated 12.03.2013 in O.A. No. 879 of 2010 and batch, wherein exhaustive reasoning has been given citing the earlier judgments of this Court as well the Apex Court, paragraph-14 whereof reads thus:

“14. Considering the statement made by Ld. Counsel for both the parties and keeping in view of the facts, the applicants have already retired from their service on attaining the age of superannuation in Work-charged Establishment we are of the considered view that no direction can be issued to the respondents for regularization of their service in regular establishment.”

7. Apart from the same, the Finance Department Resolution No. 4419/F dated 22.01.1965 is of no help to the Petitioner which deals with the service conditions of the employees of Work-Charged Establishment. The Finance Department Resolution dated 15.05.1997 also does not envisage that an employee can be automatically brought over from NMR/DLR/Work-Charged Establishment to Regular Establishment on completion of 10 years or more of service.

8. In such view of the matter, the relief sought by the Petitioner cannot be granted and, as such, the Tribunal has not committed any illegality or irregularity in passing the order impugned so as to warrant interference of this Court.

9. Accordingly, the Writ Petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE

Ashok/PCD