

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 11918 of 2015

Balakrushna Nayak

.....

Petitioner

Mr. G.R. Sethi, Adv.

Vs.

**Registrar, State Administrative
Tribunal, Cuttack and others**

.....

Opposite parties

Mr. A.K. Mishra, AGA

CORAM:

**DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO**

ORDER

06.05.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Mr. G.R. Sethy, learned counsel for the petitioner and Mr. A.K. Mishra, learned Addl. Government Advocate.

3. The petitioner has filed this writ petition seeking to quash the order dated 10.12.2014 passed in O.A. No.1190 (C) of 2007, by which the Odisha Administrative Tribunal, Cuttack Bench, Cuttack, has rejected the claim with regard to regularization of service of the petitioner and dismissed the original application filed by him.

4. Mr. G.R. Sethi, learned counsel for the petitioner contended that the petitioner, who was working as a workman, is entitled to regularization in service from the date his junior, namely, Ananta Kumar Dhinda, was regularized. It is further contended that though the opposite party-authority regularized the services of Ananta Kumar Dhinda, who is admittedly junior to the petitioner, but denied such benefit to the petitioner. Therefore, being aggrieved by the order of the authority though the petitioner

approached the tribunal by filing O.A. No. 1190 (C) of 2007, but the tribunal has rejected the claim of the petitioner with regard to regularization of service and dismissed the original application filed by the petitioner. Therefore, the petitioner has approached this Court by filing the present writ petition.

5. Mr. A.K. Mishra, learned Addl. Government Advocate contended that the petitioner has not produced any materials before the tribunal to indicate that Ananta Kumar Dhinda is junior to the petitioner so as to get the benefit at par with him. Therefore, in absence of any materials to that effect, the tribunal is well justified in passing the order impugned by rejecting the claim for grant of benefit of regularization in service of the petitioner. Thereby, the order passed by the tribunal does not require any interference of this Court.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner was engaged as a casual labourer in the year 1988 and after working for two years, he was directed to work at Oupada, vide order dated 13.03.1990 of the Chief District Veterinary Officer, Balasore. He worked at Oupada till 30.11.1992 and thereafter he was transferred to Remuna Diary Firm. On 24.08.1993, he submitted a representation for his posting at a place nearer to his house, but his representation was not allowed and on the other hand termination order was issued to him. Being aggrieved by such order, the petitioner submitted a representation before the authority, but instead of taking action on his representation, some freshers were appointed in violation of the principles "last come first go", and by such appointment of freshers, the right of the petitioner as

envisaged under Articles 14 and 16(1) of the Constitution of India has been violated. It was the stand of the petitioner that one Abhaya Mohanty and Sk. Habibullah were appointed on 04.03.1997 and one Dwijendra Muduli on 20.08.1997, but he was discriminated. Therefore, he approached the tribunal in O.A. No. 3465 (C) of 1997 with a prayer to direct the opposite parties to appoint him. The said original application was disposed of with a direction to the opposite parties to consider the representation of the petitioner. Accordingly, opposite party no.2 considered the representation of the petitioner and rejected the same, vide order dated 11.02.1998. Challenging the said order, the petitioner again approached the tribunal by filing O.A. No.1186 (C) of 1998 and during pendency of such original application, the petitioner submitted a representation before the authority to reconsider his case for appointment, as was done in the case of Abhaya Mohanty, Sk. Habibullah and Dwijendra Muduli. The said original application was disposed of directing the opposite parties to consider the representation dated 20.06.2006 of the petitioner within a period of four months from the date of receipt of copy of the order. But again opposite party no.2 rejected the representation of the petitioner. Being aggrieved by the said order, the petitioner approached the tribunal by filing O.A. No. 1190 (C) of 2007. The tribunal, while adjudicating the matter, has come to a definite finding that Abhaya Mohanty, Sk. Babbibullah and Dwijendra Muduli had been engaged prior to the engagement of the petitioner in the year 1987. Therefore, the claim made by the petitioner, that his juniors have been taken into service and he has been left out, is not correct. Further, as regards, the claim made that one Ananta

Kumar Dhinda was engaged on 04.03.1991, who was junior to the petitioner, was regularized in service by order dated 11.09.1996, whereas the petitioner has been denied such benefit, to substantiate the same, the petitioner could not produce any material before the tribunal showing his engagement to prove that he is junior to the petitioner so as to extend the benefit of regularization. Therefore, the tribunal is well justified in rejecting the claim of the petitioner. So far as the service rendered by the petitioner is concerned, it appears that the petitioner had only rendered service for 11 days from 26.11.1989 to 08.12.1989 and again from March, 1990 to November, 1992 and, as such, thereafter he was not allowed to work. Thereby, the tribunal is well justified in passing the order impugned in rejecting the claim of the petitioner with regard to regularization of his service.

7. In such view of the matter, we do not find any error apparent on the face of the order impugned passed by the Odisha Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 1190 (C) of 2007, so as to warrant interference with the same.

8. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE