

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.4588 of 2022

Sri Prakash Chandra Mohapatra ***Petitioner***

Mr. Subrat Mishra, Advocate

-versus-

State of Odisha and others

Opposite Parties

Mr. K.K. Nayak, ASC for State

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

04.04.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioner as well as learned counsel for the State.

3. The present writ petition has been filed by the petitioner with the following prayers:-

“ It is therefore prayed that this Hon’ble Court may graciously be pleased to admit the case issue notice to opp. Parties and after hearing the case may dispose of the same in the light of the Judgment dt.11.12.2021 passed in W.P.(C) No.33301/2020, W.P.(C) No.32900/2020, W.P.(C) No.33346/2020 and W.P.(C) No.33366/2020 by directing the opp. Parties to regularize the services of the petitioner in the post of Laboratory Technician with effect from 02.05.2016 when he has completed 6 years of contractual service with all other service benefits in the interest of justice.”

4. It is stated that one ***Narayan Sahoo***, who was working as

Laboratory Technician under CDMO & PHO, Angul had approached the Odisha Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.3731(C)/2013, which was subsequently allowed in his favour vide order dated 09.01.2017. The State challenged the said order of the Tribunal in the Hon'ble High Court of Orissa in W.P.(C) No.14933/2017, which was dismissed on 18.01.2019. Against the aforesaid order, State filed SLP(C)No.10687/2019, which was dismissed by the learned Apex Court on 07.05.2019, thereby confirming the order of the High Court and the OAT. Accordingly, the Petitioner in the above case, i.e. Narayan Sahoo was regularized after completion of six years of service. Likewise, one **Pravat Kiran Nayak** on completion of 6 years of contractual service had been regularized by the CDMO & PHO, Koraput on 16.06.2020 as Junior Laboratory Technician, who had passed from a private institution.

5. Earlier a group of Petitioners had approached this Court filing writ petitions bearing WPC(OAC) No.3526 of 2016 and WPC(OAC) No.3527 of 2016 2021, which were disposed of on 23.12.2021 with a direction to the authorities to consider the case of the petitioners in the light of the judgment of this Court in the matter of **Akhila Kumar Naik and others vrs. State of Odisha and others** (W.P.(C) No.33301 of 2020 and a batch of other matters vide judgment dated 11.12.2021.

6. In the instant case, a close scrutiny of the order dated 04.02.2022 under Annexure-16, it is seen that the representations of the petitioners have been rejected by the High Power Committee on the ground that the petitioners are found to have been passed out from private unrecognized institutes relying on a notification by the Govt. in H&FW Dept. No.26564/H dated 18.11.2020. Accordingly,

the representation submitted by the petitioners have been rejected by the Government and their cases for regularization of services against Government sanctioned post have not been considered by the Government.

7. Learned counsel for the petitioners submits that the ground on which the representations of the petitioners have been rejected was precisely the issue in the case of *Akhila Kumar Naik and others vrs. State of Odisha and others* and this Court after considering the issue in detail by a judgment finally held that the ground which has been relied on by the HPC in the order rejecting the representations, is illegal and the observation to that effect made by the High Power Committee in its Minutes dated 15.05.2020 and the consequential letter dated 18.11.2020 so far it relates to non-regularization of services of the petitioners on the plea that they have passed from unrecognized institution by the High Power Committee is unsustainable in the eye of law.

8. It is also stated that Petitioner has earlier moved this Hon'ble Court in W.P.(C) No.24306 of 2021 and this Hon'ble Court vide its order dated 27.08.2021 directed the Opposite Party No.1 to consider the representation of the Petitioner within three months from the date of production of certified copy of this order along with copy of the representation, which was filed along with the order before the Authority on 13.09.2021, but till date, Opposite Party No.1 has not taken any steps in this regard.

9. On perusal of the impugned order, this Court is of the considered view that the authorities in a very callous and casual

manner have been sitting over the matter. While considering the representation pursuant to the direction of this Court, the Government should have gone through the judgment passed by this Court and decided the issue in the light of the ratio of the judgment passed by this Court in the case of ***Akhila Kumar Naik and others vrs. State of Odisha and others***. When this issue was put to the Government counsel, he was unable to give any satisfactory answer.

10. Considering the aforesaid submissions made by the learned counsel for the parties and considering the facts and circumstances of the present case, the Chief Medical & Public Health Officer, Nayagarh-Opposite Party No.3 is directed to consider the cases of the Petitioner(s) keeping in view the similar benefit extended to the other similarly situated persons and same benefit be extended to the present petitioners(s) by regularizing their services from the date of completion of six years of service in the post of Laboratory Technician by applying the ratio decided strictly in the light of the ratio decided in the case of ***Akhila Kumar Naik and others vrs. State of Odisha and others*** and ***Judgment dtd.11.12.2021 passed in W.P.(C) No.33301/2020, W.P.(C) No.32900/2020, W.P.(C) No.33346/2020 and W.P.(C) No.33366/2020*** within a period of three months from the date of production of certified copy of this order as well as the copy of judgments in ***Akhila Kumar Naik's case (supra)***.

11. Further the Opposite Parties are directed that if the petitioner is working regularly, to reconsider the issue strictly in accordance with law and dispose of the same by passing a speaking and reasoned order. Any decision taken on the same shall be communicated to the Petitioner within a period of two weeks thereafter. The petitioner is

also directed to furnish copies of any other judgments relied upon by him along with certified copy of the order to the Authority within the above time limit. The authorities are directed that if the petitioner is working regularly, his current salary should be paid immediately preferably within a period of one month from the date of receipt of a copy of this order.

12. With the aforesaid observation and direction, the writ petition is allowed. There shall no order as to cost.

13. Urgent certified copy of this order be granted on proper application.

U.K. Sahoo

