

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.7503 of 2022

Sadasiva Sahu

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

20.10.2022

W.P.(C) No.7503 of 2022

&

I.A No.13071 of 2022

Order No

- 2.** **1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. S.Patra-1, learned counsel for Petitioner and Mr. Ch. S. Mishra, learned Addl. Government Advocate for the State-Opposite Parties.
- 3.** The present Writ Petition has been filed by the Petitioner challenging the order dated 28.02.2022 under Annexure-9, wherein the prayer of the Petitioner for his regularization was rejected.
- 4.** Even though this Court vide its order dated 18.04.2022 directed the learned State Counsel to obtain instruction in the matter, but no instruction is forthcoming from the Opposite Parties as submitted by Mr. Mishra, learned State Counsel.
- 5.** Mr. S. Patra-1, learned counsel for the Petitioner submitted that even though the Petitioner pursuant to an advertisement issued in the year 2012 was engaged as a Junior Laboratory Technician (Malaria) on contractual basis vide office

order dated 30.03.2013 under Annexure-1, but the Opposite Party No.2 by misconstruing his appointment to have been made in terms of the advertisement dated 28.06.2013 rejected the claim on the grounds indicated in the said order.

6. It is submitted that since the Petitioner was appointed in terms of an advertisement issued in the year 2012 that too with the order of appointment issued on 30.03.2013 the stand taken by the Opposite Party No.2 that the petitioner was appointed pursuant to an advertisement dated 28.06.2013 and in violation of the provisions contained in ORV Act cannot be accepted. This Court is of the view that the said opposite party without proper appreciation of the Petitioner's claim has taken such a stand while rejecting his claim.

7. Therefore, this Court is inclined to quash the impugned order dated 28.02.2022 under Annexure-9. While quashing the same, this Court directs the said Opposite Party No.2 to take a fresh decision taking into account the date of advertisement and the date of appointment of the petitioner in question and such a fresh decision shall be taken within a period of two months from the date of receipt of this order.

8. But while disposing the Writ Petition and basing on the submission of Mr. Patra-1 that the Petitioner after passing of the impugned order is not being allowed to discharge his duty on the ground that he has not obtained the due extension from the office of Chief District Medical & Public Health Officer, Rayagada, this Court is of the view that such a ground is not tenable in view of the communication dated 18.06.2016 of the Health & Family Welfare Department, Govt. of Odisha, wherein it has been held that no such extension is required to be obtained.

9. Therefore, this Court also directs the Opposite Party No.4 to allow the Petitioner to discharge his duty without insisting on

the extension as directed vide his communication dated 28.02.2022. The Opposite Party No.4 shall allow the Petitioner to discharge his duty forthwith pending final decision of the Opposite Party No.2 as directed by this Court hereinabove.

10. With the aforesaid observation and direction, the Writ Petition as well as I.A is disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

