

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.16849 of 2012

Charana Kanhar

....

Petitioner

Dr. J.K. Lenka, Adv.

-versus-

State of Odisha & another

....

Opposite Party

Mr. M. Das, Adv.

Mr. S.N. Pattnaik, AGA

CORAM: JUSTICE V. NARASINGH

ORDER

19.10.2022

Order No.

07.

1. This matter is taken up through hybrid mode.
2. Heard Dr. Lenka, learned counsel for the Petitioner, Mr. Das, learned counsel for the Opposite Party No.2 and Mr. Pattnaik, learned AGA.
3. The prayer in the present writ petition is to sanction of equal pay for equal work to the Petitioner, who is stated to be working as a Driver with effect from 4.6.2010 basing upon his appointment order dated 2.8.1998 at Annexure-2.
4. It is the submission of Dr. Lenka, learned counsel for the Petitioner, that though the appointment of the Petitioner was as a Helper as he is discharging his duty as a Driver since 2010, which is clearly borne out from the materials on record, denial of pay and emolument as a Driver amounts to exploitation.
5. During the course of hearing, it came to the fore from the counter filed by the Municipal Corporation, which is on record at

Annexure-A/2, that the appointment of the Petitioner along with some others were found to be irregular and purportedly in contravention of Section 75 and 73-D of the Orissa Municipal Act, 1950 as well as the instruction of the Finance Department contained in letter No.17815 dated 12.04.1993. The said Annexure-A/2 is extracted hereunder for convenience of ready reference :

“xxx xxx xxx

From

Shri Sanjib Kumar Mishra
Director, Municipal Admn. &
Ex-Officio Addl. Secretary to Govt.

To

The Municipal Commissioner,
Cuttack Municipal Corporation, Cuttack

Sub : Illegal appointments made in Cuttack Municipal Corporation during 1996-97 and 1998-99.

Sir,

In inviting a reference to your Letter No.6534 dtd. 31.07.2014 on the subject noted above, I am directed to say that Govt. after careful consideration have been pleased to declare the appointment of 117 persons in the year 1996-97 and 157 persons in the year 1998-99 appointed vide Office Order as detailed below as void, since such appointments have been made contravening the Section-75 and Sec-73 D of the O.M Act, 1950 as well as the instruction of Finance Department Letter No.-17815, dtd.12.04.1993 (copy of the aforesaid orders enclosed)

1.Office Order No.6517, dtd.03.09.1996	10.No.2265, dtd.09.04.99	19.No.4438, dtd.29.06.98
2.No.6522, dtd.03.09.96	11.No.2395, dtd.16.04.99	20.No.4439, dtd.29.06.98
3.No.6517, dtd.03.09.96	12.No.2437, dtd.17.04.99	21.No.6023, dtd.12.08.98
4.No.5092, dtd.06.08.1997	13.No.2741, dtd.07.05.99	22.No.2437, dtd.17.04.99
5.No.1510, dtd.24.02.97	14.No.3302, dtd.24.05.99	23.No.2265, dtd.09.04.99
6.No.3930, dtd.06.06.97	15.No.4253, dtd.20.06.98	24.No.2440, dtd.17.04.99
7.No.3927, dtd.06.06.97	16.No.4243, dtd.20.06.98	25.2398, dtd.16.04.99
8.No.4439, dtd.29.06.98	17.No.6027, dtd.12.08.98	
9.No.5683, dtd.04.08.98	18.No.7102, dtd.23.09.98	

6. The appointment order of the Petitioner as Helper is at Serial No.17 of the said annexure.

7. It is stated at the Bar that the Petitioner along with other similarly circumstanced, whose names appear in the said communication, referred to herein above, have assailed the same in WP(C) No.16144 of 2021 and the communication quoted hereinabove dated 16.03.2015 has been annexed as Annexure-26 to the said writ petition.

8. In such view of the matter, since the order passed in WP(C) No.16144 of 2021 will have a direct bearing on the point at issue in the present writ petition, this Court refrains from entertaining the same on merit and in fitness of things it shall await the order passed in WP(C) No.16144 of 2021.

9. List the present case along with WP(C) No.16850 of 2012 after disposal of the aforementioned WP(C) No.16144 of 2021 before the assigned Bench.

10. It is needless to mention that in the event the Petitioner succeeds in WP(C) No.16144 of 2021, he shall be entitled to the claim and the consequential benefits in terms of the order passed in the said writ petition.

11. Since WP(C) No.16144 of 2021 was called for reference in the present case, the same be listed before the assigned Bench in terms of the direction passed therein.

(V. NARASINGH)
Judge

PKS