

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.8497 of 2022

Debabrata Nath

....

Petitioner

-versus-

State of Odisha & Others.

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

09.09.2022

Order No

05. 1. This matter is taken up through Hybrid Mode.

2. Heard Mr. Debi Prasad Dhalasamanta, learned counsel for the petitioner and Mr. A.P. Das, learned Addl. Standing Counsel.

3. The petitioner has filed the present writ petition challenging the order dated 22.2.2022 passed by Opp. Party No.3 under Annexure-19. It is submitted that the petitioner was duly appointed as a Livestock Inspector on contractual basis vide order dated 6.4.2013 under Annexure-2. It is submitted that subsequently with renewal of his agreement, the petitioner was allowed to continue. It is also submitted that while so continuing on medical

ground the petitioner remained on leave from 20.2.2016 to 19.12.2016 by submitting necessary leave applications. But, the petitioner for the first time was issued with a show-cause on 24.4.2018 under Annexure-7 by said opp. Party No.3 to explain the reason for remaining absent from 20.2.2016 to 19.12.2016. The petitioner on receipt of the same though submitted his reply under Annexure-8, but no further decision was either taken or communicated to the petitioner.

4. It is submitted that in the meantime, in spite of due discharge of work, when the salary of the petitioner w.e.f 20.4.2019 was not released, the petitioner approached this court in W.P.(C) No.36826 of 2021. This Court on 9.12.2021 disposed of the matter with a direction on opp. Party No.3 to take a decision on the representation submitted by the petitioner vide Annexures-10 & 12 to the said matter. It is submitted that without taking a decision with regard to release of the salary, opp. Party No.3 while passing the impugned order has taken the stand that the petitioner's

contractual service was not renewed due to non-submission of non-judicial stamp paper through proper channel. It is also indicated that the contractual service of the petitioner cannot be renewed from 1.4.2019 due to the unauthorised leave for 227 days which has not been regularized.

5. Learned counsel for the petitioner submitted that for the alleged unauthorized leave which has been indicated in the impugned order, the petitioner was issued with the show cause only in the year 2018 under Annexure-7 and the petitioner immediately submitted his reply on 29.12.2018 under Annexure-8. The petitioner after submission of such reply, was never communicated with any order by Opp. Party No.3. But the petitioner though was allowed to continue, but his salary was not released w.e.f 20.4.2019. Only when the petitioner approached this Court seeking direction for release of his salary w.e.f 20.4.2019, Opp. Party no.3 while passing the impugned order has taken contrary stand with regard to non-renewal of the agreement beyond

31.3.2019. While on the one hand, the opp. Party No.3 has taken a stand that the engagement of the petitioner could not be renewed beyond 31.3.2019 due to non-submission of non-judicial stamp paper through proper channel, but on the other hand he has also taken the stand that the re-engagement cannot be renewed due to non-regularisation of the unauthorized leave period for 227 days, for which the petitioner was show-caused under Annexure-7. Accordingly, learned counsel for the petitioner submitted that since the petitioner was duly appointed vide order under Annexure-2 and he was allowed to continue with due renewal of agreement, non-renewal of his engagement beyond 31.3.2019 on the grounds indicated in Annexure-19 is not just and proper.

6. It is also submitted that at no point of time the petitioner was ever asked to provide non-judicial stamp paper and after submission of reply under Annexure-8, no further order has been passed with regard to regularization of the unauthorized leave in question. It is also

submitted that the petitioner being a contractual employee, as per the 2013 Contractual Group C & Group D Appointment Rules, the provision of OCS (CCA) Rules, is applicable to the case of the petitioner.

7. Be that as it may, since the petitioner has already submitted his reply under Annexure-8 to the show-cause issued in Annexure-7, with no decision being taken on the same till date, this Court while disposing the writ petition directs opp. Party No.3 to allow the petitioner to continue by renewing the agreement. The petitioner is directed to provide required non-judicial stamp paper as desired by opp. Party No.3 for renewal of agreement within a period of ten days from today. On such submission of non-judicial stamp paper, opp. Party No. 3 shall renew the agreement forthwith and allow the petitioner to continue. However, while dealing with the regularization of the unauthorized leave in question, by opp. Party no.3 shall afford reasonable opportunity of hearing to the petitioner and take such decision

in accordance with the provision contained under OCS (CCA) Rules, 1962.

5. The Writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)

Judge

sangita

