

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.198 of 2018

***Odisha Lift Irrigation Corporation Ltd.
& others.***

Appellants

Mr. Suryakanta Padhi, Sr. Advocate

-versus-

Jayram Behera & others

....

Respondents

*Mr. Dayananda Mohapatra, Advocate
(For Respondent Nos.1 and 2)*

**CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN**

**ORDER
26.10.2022**

Order No.

11. 1. This writ appeal is against the order dated 15th January, 2018 passed by the learned Single Judge disposing of W.P.(C) No.19546 of 2016 directing the appellant to pay the arrear of salary to the Respondent Nos.1 and 2.
2. Taking on board the averments made in the counter affidavit filed by the Appellant to the effect that the writ petitioners had not been retrenched and were continuing, the learned Single Judge held that they were entitled to get the arrears from 2009 till the date of the impugned order.
3. In para 8 of the impugned order, the learned Single Judge has extracted para 5 of the counter affidavit filed by the Appellant-Corporation where it is stated as under:

“5. That, in reply to averments made in paragraph-6 of the writ petition it is humbly submitted that the opp.Party no.2 has declared the petitioners as

surplus category of employee through his Letter No.22267 dt. 26.12.2005 and the authority has decided to retrench zero/surplus employees, since the case of the petitioners is pending before the Hon'ble High Court, they have not been retrenched.”

4. Mr. Padhi, the learned senior counsel appearing for the Appellant does not dispute the averment made in the counter affidavit, but takes exception to the direction that Respondents 1 and 2 should be paid the arrear salary for the entire duration of their continuing in service.

5. Even according to the Appellant, Respondent Nos.1 and 2 were not retrenched and continued during the pendency of OJC No.8539 of 2000 filed by them seeking regularisation. OJC No.8539 of 2000 was in fact disposed of on 10th of January, 2019 by the learned Single Judge directing absorption of the writ petitioners therein on regular basis. It appears that the Appellant-Corporation did not file any appeal against the above order dated 10th of January, 2019 in OJC No.8539 of 2000 which thus attended finality.

6. In the circumstances, the direction issued by the learned Single Judge in the impugned order cannot be faulted. The writ appeal is, accordingly, dismissed.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge