

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 7218 of 2018

Bhimsen Behera

.....

Petitioners

Mr. K.P. Mishra, Sr. Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

Mr. JUSTICE G. SATAPATHY

ORDER

06.09.2022

Order No.

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This matter is taken up through hybrid mode.

2. The petitioner has filed this writ petition seeking direction to opposite parties to regularize his service with effect from the date the petitioner initially entered into the services and to extend all consequential benefits.

3. Learned counsel for the petitioner contended that similar benefit has been extended to one ***Narusu Pradhan*** (O.A. No. 1189 (C) of 2006 decided on 11.06.2009) and there is no denial of the same. As such the petitioner having stood in similar footing, he is entitled to get all the benefits. The petitioner has also relied on the decision of this Court in the case of ***Government of Orissa and others v. Duryodhan Mohanty and others***, 2001 (II) OLR-393. He further contended that similar question was also before this Court in WPC (OAC) No. 3494 of 2013 (***Abhaya Charan Mohanty v State of Odisha and others***), which was disposed of vide order dated 14.07.2021. According to learned counsel for the petitioner, the petitioner stands on the same footing.

4. In the counter affidavit filed by the State they have relied upon the order passed by this Court dated 06.05.2003

in W.P.(C) No. 7813 of 2013, wherein the order of retrenchment dated 30.05.2003 under Annexure-6 issued by the opposite party no.1 and subsequent notice dated 25.07.2003 under Annexure-7 series were under challenge and this Court initially passed an interim order on 20.08.2003 and finally passed the following order.

“We have heard learned counsel for the petitioners and perused the records. It will not be out of place to mention here that petitioners, except few, are still continuing in services right from 1993 till today. Further, because of the impugned order of this Court dated 20.8.2003 (quoted above), they are continuing and in the meantime, fifteen years have elapsed. Further, by efflux of time, some of them have retired or might retire within a short span of time. In that view of the matter, taking into consideration the law prevailing as on today that the Work Charge and NMR employees are required to be paid minimum regular pay scale, we are of the view that retrenchment of the petitioners at the fag end their services is inappropriate. Therefore, it is directed that the petitioners, who have not yet retired, will not be retrenched from the services”.

5. Having heard learned counsel for the parties, after going through the records it appears that one **Narusu Pradhan**, a similar circumstanced person like the petitioner had filed O.A. No. 1189 (C) of 2006 praying for retrial benefits. The Tribunal allowed the retrial pensionary benefits in his favour vide order dated 11.06.2009, which was challenged by the State before this Court in W.P.(C) No. 5377 of 2010. This Court dismissed the writ petition on 19.12.2011 and confirmed the order passed by the Tribunal. Thereafter against the order passed by this Court, the State has preferred SLP in Civil Appeal No. 22498 of 2012, the same was also dismissed on 07.01.2013.

6. In that view of the matter, the relief claimed by the petitioner is fully covered by the judgment of the Tribunal passed in the case of **Narusu Pradhan**, which has been confirmed by this Court as well as the apex Court. Thus the

petitioner, having stood in similar footing, are entitled to get the benefits which have been extended to *Narusu Pradhan* (supra) and *Duryodhan Mohanty* (supra) and as such, the benefits as due and admissible to the petitioner, shall be granted to him in accordance with law within a period of four months from the date of communication of this order.

7. With the above observation/direction, the writ petition stands disposed of.

8. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE

Alok/Subhasmita

