

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10100 of 2022

***Pratap Kumar Pattanaik and
another***

....

Petitioners

Mr. K.P. Mishra, Sr. Advocate

-versus-

State of Orissa and others

....

Opposite Parties

Mr. YSP Babu, AGA for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

05.05.2022

Order No.

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The writ petition involves the following prayer:
- “Under the aforesaid facts and circumstances, it is therefore, prayed that this Hon’ble Court may graciously be pleased to:
- (i) Quash the Order of disengagement of the Petitioners from their services as Peon and Jr. Grade Diarist, dated 01.11.2021 under Annexure-7, passed by the Opp. Party No.6 by concurrently holding the same as illegal, improper and not sustainable in the eye of law;
- (ii) Direct/order the Opp. Parties to allow the Petitioners to continue in their services and reconsider their cases as per the Letter, dated 12.01.2022 under Annexure-8 of the learned Chairperson of OSCPCR and representation, dated 15.01.2022 under Annexure-9 of the Petitioner to the learned Chairperson of the OSCPCR;
- (iii) Direct/order the Opp. Parties to allow the Petitioners to continue in their respective services and regularize

them as the posts, in which they are continuing as approved posts;

- (iv) Pass such other order(s) or issue direction(s) as may be deemed fit and proper in the bona fide interest of justice;

And for this act of kindness, the Petitioners as in duty bound shall ever pray.”

4. It is submitted by learned counsel for the Petitioners that Petitioners are working on being engaged by Outsourcing Security Agency for last 11 years at the Orissa Commission for Protection of Child Rights (OSCPCR). It is further submitted by learned counsel for the Petitioners that after having worked for long 11 years with a meager salary at the OSCPCR, the Agency is contemplating to recruit new persons/outsideers on contractual basis in place of the present Petitioners. Accordingly, show-cause notice has been issued by the said Security Agency on 28.10.2021. It is further submitted by learned counsel for the Petitioners that while the matter stood thus, the Odisha Group ‘C’ and ‘D’ posts (Contractual Appointment) Rules, 2013 came into force, vide G.A. Department Notification dated 12.11.2013. It is submitted that in view of such Notification, Petitioners are eligible to be regularized/absorbed in the services. However without considering their cases for regularization under the aforesaid rules and in view of the judgment of this in the case of ***Rashmi Rekha Dash vs. State Of Odisha & Another, passed in W.P(C) Nos. 16906 of 2020 and a batch of case, decided on 23.11.2021***, the services of the Petitioners have been improperly disengaged w.e.f. 01.11.2021. Learned counsel for the Petitioners further submits that now the Petitioners are over aged and they will not be able to apply for any other services. It is further submitted by learned counsel for the Petitioners that Petitioners have submitted a detailed representation to the Chairperson, Odisha State Commission for Protection of Child Rights,

Bhubaneswar, Opposite Party No.5 on 15.01.2022 (Annexure-9). It is stated that the same is still pending for consideration before the Opposite Party No.5.

5. Learned counsel for the State on the other hand submits that in the event direction is given to the Opposite Party No.5 to consider the representation of the Petitioners dated 15.1.2022 within a stipulated period of time, the same will suffice the purpose and he has no objection to the same.

6. Considering the aforesaid submissions, this Court disposes of the writ petition with a direction to Opposite Party No.5 to consider the representation of the Petitioners dated 15.1.2022 (Annexure-9) within a period of two months from the date of production of certified copy of this order. Opposite Party No.5 is further directed to consider the representation of the Petitioners in the light of the Rules, 2013 and the judgment in the case of *Rashmi Rekha Dash (supra)* and shall dispose of the same by passing a speaking and reasoned order within the aforesaid time. The decision so taken shall be communicated to the Petitioner within a period of two weeks thereafter.

7. With the aforesaid direction, the writ petition stands disposed of.

8. Till a decision is taken on the representation of the Petitioners, the Petitioners shall be allowed to continue in the services they are continuing as of now.

9. Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge