

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11798 of 2022

Krushna Chandra Dash ***Petitioner***
Mr. S. B. Mohanty-1, Advocate
-versus-
State of Odisha and others ***Opposite Parties***
Mr. Y.S.P. Babu, AG.A.

**CORAM:
JUSTICE A.K. MOHAPATRA**

ORDER
13.05.2022

Order No.

01.

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 petitioner has filed this application seeking direction to the opposite parties to regularize his service taking into account his continuous service, as expeditiously as possible.
4. Mr. S.B. Mohanty-1, learned counsel for the petitioner states that the petitioner has been continuing as a DLR employee under the opposite parties, but till date he has not been regularized, although more than 26 years have passed in the meantime. He has referred to the case of ***State of Karnataka v. Umadevi***, 2006(4) SCC 1, wherein in paragraph 53, the Apex Court has held that the State Governments and their instrumentalities should take steps to regularize as a one-time measure the services of such irregularly appointed who have

worked for ten years or more in duly sanctioned posts. Similar view has also been taken by the Apex Court in *State of Karnataka and others v. M.L.Keshari and others*, 2010(II) OLR (SC) 982, wherein in paragraph 7 the apex Court has held as follows :

“7. It is evident from the above that there is an exception to the general Order No. 01. principles against ‘regularization’ enunciated in *Umadevi* if the following conditions are fulfilled: (i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years. (ii) The appointment of such employee should not be illegal even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive-selection, such appointments are considered to be irregular.”

5. In that view of the matter, since the petitioner is continuing as DLR employee and completed 26 years of service in the meantime and even though his appointment is irregular, he should be regularized in service in view of the judgment of the Apex Court in *Umadevi and M.L.Keshari (supra)*, as well as *Amarkanti Rai v. State of Bihar and others*, (2015) 8 SCC 265.

6. In view of such position, the opposite parties are directed to regularize the service of the petitioner and grant all consequential benefits as due and admissible to him in accordance with law within

a period of three months from the date of production of an authenticated/certified copy of this order.

7. With the aforesaid observation and direction, the writ petition is allowed.

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

(A.K. Mohapatra)
Judge

RKS

