

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 17131 of 2016

Dr.Mahendra Champati

.....

Petitioner

Mr. S. Mohanty, Advocate

Vs.

State of Orissa & Ors.

.....

Opposite parties

Mr. S.N. Nayak, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

06.04.2022

Order No.

7

This matter is taken up through hybrid mode.

2. Heard Mr. S. Mohanty, learned counsel for the petitioner and Mr. S.N. Nayak, learned Additional Standing Counsel for the State.

3. The petitioner has filed this writ petition challenging the order dated 17.03.2016 passed in O.A. No. 2326 (C) of 2002, by which the Orissa Administrative Tribunal, Cuttack Bench, Cuttack has dismissed the claim of the petitioner for treating the period of service rendered by him in OUAT as qualifying service.

4. Mr. S. Mohanty, learned counsel for the petitioner contended that the petitioner had rendered service in OUAT but his past service has not been taken into consideration, after joining in Government service, for calculating pensionary benefits. Therefore, the petitioner has approached this Court by filing this writ petition.

5. Mr. S.N. Nayak, learned Additional Standing Counsel contended that the petitioner had initially joined in OUAT, but he resigned from the said service and thereafter he joined in the Government service. Therefore, no lien is continuing by virtue of joining of the petitioner in the new post and, as such, there was break up in service. The

appointment of the petitioner in Government service is a fresh one. Therefore, the petitioner is not entitled to get the service continuity of the period he had rendered in OUAT.

6. Having heard learned counsel for the parties and after going through the records, it appears that the petitioner was initially continuing in OUAT and thereafter, he resigned from the said post and joined afresh in the Government service. Therefore, no lien is continuing by virtue of joining of the petitioner in the new post and, as such, there is break up in service. The Tribunal, while passing the order dated 17.03.2016 in paragraph-8 has observed as follows:

“One has to consider Rule 44 of the OCS (Pension) Rules, 1992, which governs the filed. It is seen that the applicant was never absorbed in the government while continuing in the OUAT. He tendered his resignation from the OUAT and after his resignation was accepted, he joined in the State Government service. Further he was not covered under the CPF scheme while he was working under the OUAT, for which the period of service rendered by him under OUAT cannot be counted as qualifying service for the purpose of full pension. No undertaking was given by the OUAT to bear the proportionate pensionary liability for the period the applicant was under their establishment. Hence, the respondents were in no position to treat the period of service rendered by the applicant in OUAT, as qualifying service.”

8. In view of the reasons assigned by the tribunal in the above quoted paragraph, this Court is not inclined to entertain this writ petition. Accordingly, the writ petition merits no consideration and the same is dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE