IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12173 of 2022

Satyabadi Nayak .... ***Petitioner***
Mr. Sadasiba Patra-1, Advocate
-versus-
State of Odisha and others .... ***Opposite Parties***
Mr. Y.S.P. Babu, A.G.A.

W.P.(C) No.12174 of 2022

Bhagabat Behera .... ***Petitioner***
Mr. Sadasiba Patra-1, Advocate
-versus-
State of Odisha and others .... ***Opposite Parties***
Mr. Y.S.P. Babu, A.G.A.

W.P.(C) No.12176 of 2022

Amulya Kumar Muduli .... ***Petitioner***
Mr. Sadasiba Patra-1, Advocate
-versus-
State of Odisha and others .... ***Opposite Parties***
Mr. Y.S.P. Babu, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

Order No. **27.06.2022**

W.P.(C) Nos.12173, 12174 and 12176 of 2022

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

As all the three writ petitions arise out of the same transaction, the same are taken up together for disposal by this common order.

2. Heard learned counsel for the petitioner as well as learned counsel for the State. Perused the record.

3. The present writ petitions have been filed by the petitioners with the following prayers:

> "Under the facts and circumstances stated above, the petitioner therefore prays that, this Hon'ble Court may graciously be pleased to issue appropriate Writ/Writ(s) in the nature of writs of Mandamus directing the Opposite Parties 2 and 3 to regularize the services of the petitioner in the post of peon and to give benefits from the date as has been given to similarly situated persons under Annexures-5 series and 6 series.
>
> And pass any other order/orders as would be deemed fit and proper."

4. These matters involve regularization of service of the petitioners.

5. Mr. S. Patra, learned counsel for the petitioners submits that the petitioners in W.P.(C) No.12173 of 2022 and W.P.(C) No.12174 of 2022 have been working as Peons since 24.05.2008 and further petitioner in W.P.(C) No.12176 of 2022 has been working as Driver almost from the same day. Further, learned counsel for the petitioners submits that although, the petitioners are working under Odisha Information Commission, Bhubaneswar, unfortunately, however, their services have not been regularized. It is also submitted by learned counsel for the petitioners that although sanctioned posts are available in the office of Odisha Information Commission, Bhubaneswar, the petitioners are not being regularized in service. Further, it is submitted that similarly situated persons

have also filed a writ petition in this Court bearing W.P.(C) No.29297 of 2020, which was disposed of by order dated 15.12.2021. Thereafter, Subrat Kumar Swain and others, petitioners in W.P.(C) No.29297 of 2020, have been regularized in services. Further, he submits that Odisha Information Commission, Bhubaneswar has also regularized the services of many other similarly situated persons vide orders at Annexures-5 and 6 series. In such view of the matter, learned counsel for the petitioners submits that the petitioners are eligible to be regularized particularly when similarly situated persons have already been regularized and they have been extended the service benefits with regard to post regularization.

6. Learned counsel for the State, on the other hand, submits that the petitioners are similarly placed with the other petitioners in W.P.(C) No.29297 of 2020 whose services have been regularized by Odisha Information Commission, Bhubaneswar-Opposite Party No.2. However, the State Government has issued certain instructions in the meantime, pursuant to which the service of the petitioners have not been regularized. In such view of the matter, learned Additional Government Advocate submits that the writ petition be dismissed as the same is devoid of merits.

7. Considering the aforesaid submissions made by the parties and further upon perusal of the documents placed on record, this Court is of the considered view that there is no bar in law for regularization of the petitioners service and the petitioners are eligible to be regularized, particularly, when similarly situated persons have been extended with such benefits and as such, the petitioners should have been given the similar benefit. Otherwise, deprivation of similar

benefit to the petitioners would violate the principle contained under Article 14 of the Constitution of India. Therefore, this Court in the larger interest of justice and in furtherance of principles contained under Article 14 of the Constitution of India directs the Odisha Information Commission, Bhubanswar-Opposite Party No.2 to consider the case of the petitioners and if it is found that the petitioners stand in similar footing with the employees, who have been regularized are eligible to get the same benefit as has been extended to the similarly situated persons, namely, ***Subrat Kumar Swain and others*** pursuant to the order dated 15.12.2021 in W.P.(C) No.29297 of 2020 similar benefits be also given to the petitioners. Let the Opposite Party No.2 consider the case of the petitioners as has been done in the matter of ***Subrat Kumar Swain and others*** within a period of two months from the date of production of certified copy of this order.

8. With the above observation and direction, these writ petitions stands disposed of.

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

(A.K. Mohapatra)
Judge

Jagabandhu