

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12553 of 2022

Sanjay Kumar Kanungo **Petitioner**

-versus-

State of Odisha & Ors. **Opposite Parties**

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
29.08.2022**

Order No

- 04.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Aurovinda Mohanty, learned counsel for the Petitioner and Mr. A.P. Das, learned ASC appearing for the Opp. Parties.
3. The Petitioner is aggrieved by the in action of the Opp. Parties in absorbing him in the regular establishment in spite of the fact that his claim was allowed by the learned Tribunal in its Order dtd.18.08.1993 passed in T.A. No.47 of 1993 under Annexure-2. In the said Original Application the Petitioner finds place at Sl. No. 74. Learned Tribunal in the said order directed the Opp. Parties to regularize the services of the Petitioners therein in a phased manner and as and when vacancy arises.
4. It is submitted that the said order passed by the learned Tribunal was challenged before the Hon'ble Apex Court and Hon'ble Apex Court vide its order dtd.26.03.1999 under Annexure-4 confirmed the order passed by the learned Tribunal. It is submitted that even

though vacancies are available all through and the Petitioner is eligible for his absorption in the regular establishment in terms of the order passed by the learned Tribunal under Annexure-2, but the Authorities are not taking any step to regularize the service of the Petitioner. It is submitted that the Petitioner was engaged as a NMR Typist on 01.10.1983 and subsequently he was brought over to the Work Charge establishment vide order dtd.21.10.2010. Mr. Mohanty also brought to the notice of this Court the vacancy position available in the Division vide Annexure-14 series.

5. Since there is no dispute that the Petitioner was allowed to continue as a NMR w.e.f.01.10.1983 and in the Work Charged Establishment from 21.10.2010, in view of the order passed by the learned Tribunal under Annexure-2, which is confirmed by the Hon'ble Apex Court the claim of the Petitioner for his absorption in the regular establishment deserves consideration. The claim of the Petitioner for his absorption is also covered as per the decision of the Hon'ble Apex Court in the case of *Secretary, State of Karnataka vs. Uma Devi (3), (2006) 4 SCC-1, State of Karnataka vs. M.L. Keshari, (2010) 9 SCC 247, Nihal Singh & Others vs. State of Punjab & Others, 2013 (14) SCC 65 and Amarkant Rai vs. State of Bihar & Others, 2015 (8) SCC 265.*

6. Even though vide order dtd.02.08.2022 this Court directed the learned State Counsel to obtain instruction as to why the Petitioner has not yet been absorbed in the regular establishment, but no instruction could be provided by the learned State Counsel.

7. In that view of the matter, this Court while disposing the writ Petition, directs the Opp. Parties to absorb the Petitioner in the regular establishment. Such order of regularization shall be issued

by the Opp. Parties within a period of three (3) months from the date of receipt of this order.

8. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha

