

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 8931 of 2011

Dhruba Charan Biswal
(Since dead) represented
through L.Rs.

.....

Petitioner

Mr. D.K. Panda., Advocate

Vs.

State of Odisha & Others

.....

Opposite parties

Mr. A.K. Mishra, A.G.A.

CORAM:

DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO

ORDER

11.03.2022

Order No.

25.

This matter is taken up through hybrid mode.

2. Heard Mr. D.K. Panda, learned counsel for the petitioner and Mr. A.K. Mishra, learned Additional Government Advocate.

3. The petitioner has filed this writ petition seeking to quash the order dated 13.09.2010 under Annexure-5 passed by the State Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.1643(C) of 1997 and O.A. No.967(C) of 1998 and further to direct the opp. parties to bring the petitioner under the regular establishment retrospectively from the date of issue of the Office Memorandum dated 06.03.1990 or at least from 22.04.1997 and grant all consequential benefits as due an admissible, taking into consideration the long service experience in the work-charged establishment.

4. Mr. D.K. Panda, learned counsel for the petitioner contended that O.A. No.1643(C) of 1997 was filed challenging

the order of retirement of the petitioner whereas in O.A. No.967(C) of 1998 was filed claiming for regularization of service. So far as the relief sought in O.A. No. 1643(C) of 1997 is concerned, the same has already been extended to the petitioner. But the claim of the petitioner in O.A. No.967(C) of 1998, relates to regularization of his service. As such, while disposing of both the Original Applications, the Tribunal, vide common order dated 13.09.2010 held that since both the Original Applications are inter linked to each other, the relief cannot be granted to the petitioner. It is further contended that since the petitioner was working under the work charged establishment and was brought over to the regular establishment his case is covered by the judgment of this Court in W.P.(C) No. 1534 of 2008 (**State of Orissa & Others -Vrs.- Jyostna Rani Pattnaik & Others**) wherein the order dated 30th July 2007 passed by the Tribunal in O.A. No.2655(C) of 2003 has been confirmed and also the judgment of the Single Judge in WPC (OAC) No.3494 of 2013 (**Abhaya Charan Mohanty - Vrs.- State of Odisha & Others**) disposed of on 14.07.2021 relying upon the judgment of the Apex Court in Civil Appeal No.22498 of 2012, which was dismissed on 07.01.2013 by confirming the order passed by this Court in W.P.(C) No.5377 of 2010 disposed of on 19.12.2011 by which the order passed by the Tribunal in O.A. No. 1189(C) of 2006 has been confirmed. Therefore, the relief sought for regularization of service of the petitioner ought to have been granted.

5. Mr. A.K. Mishra, learned Addl. Govt. Advocate for the State contended that since the order of retirement has been confirmed by virtue of the order passed by the Tribunal in O.A. No. 1643 (C) of 1997 and the regularization of service are inter

linked to the said order, thereby, the Tribunal is well justified while passing such order which does not warrant interference of this Court.

6. Having heard learned counsel for the parties and after going through the records, admittedly the regularization of service vis-a-vis the retirement benefit are two different issues. As such, since the benefit of retirement has been extended to the petitioner, there is no justification not to extend the benefit of regularization as due and admissible to the petitioner in accordance with law. More so, this question is no more *res integra* in view of the fact that similarly situated persons have been extended the benefit by virtue of the order passed by the Tribunal which has been confirmed by this Court as well as the Apex Court.

7. Therefore, this Court while setting aside the impugned order dated 13.09.2010 under Annexure-5, disposes of this writ petition directing the opposite parties to extend the benefit of regularization in favour of the petitioner, in terms of the judgment passed in the case of **Jyostna Rani Pattnaik** as well as **Abhaya Charan Mohanty** (supra), within a period of four months from the date of communication of the order.

8. Issue urgent certified copy as per rules.

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(**DR. B.R. SARANGI**)
JUDGE

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(**SAVITRI RATHO**)
JUDGE