

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.11008 of 2018

Sovan Kumar Dash & Ors.

.....

Petitioners

Mr. B. Routray, Sr. Advocate

State of Odisha and Anr.

Vs.

.....

Opposite Parties

Mr.A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

13.10.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. B. Routray, learned Senior Counsel appearing along with Mr. J. Biswal, learned counsel for the petitioners and Mr. A.K. Mishra, learned Additional Government Advocate appearing for opposite parties.

3. The petitioner has filed this writ petition seeking direction to the opposite parties to take into consideration the period of service of the petitioners as Ad hoc Judges of the Fast Track Courts for determination of their pension and other retiral benefits as per the Orissa Civil Services (Pension) Rules, 1992 and to give to them all the service benefits accrued during the period of service as Ad hoc Judges of the Fast Track Courts and protect the scale of pay by fixing their salary in the scale last drawn by them or accrued on 01.02.2013 prior to their regularization in the posts of regular cadre District Judge and further to consider their appointments for the existing vacancies in the regular cadre of direct District Judge of the year 2012, in view of directions of the apex Court in ***Brij Mohan Lal v. Union of India*** (Transfer Case

(Civil) No.22 of 2001) instead of newly created posts and to place them in correct order or seniority in the civil list with all the consequential benefits.

4. Mr. B. Routray, learned Senior Counsel appearing for the petitioners contended that the period of service rendered by the petitioners as Ad hoc Judges in the Fast Track Courts should be taken into consideration for determination towards pensionary benefit and other benefits as per Orissa Civil Services (Pension) Rules, 1992. To substantiate his contentions, he has relied upon the judgments of the apex Court in ***Mahesh Chandra Verma v. State of Jharkhand***, AIR 2018 SC 2924 and ***Kumari C. Yamini v. State of Andhra Pradesh***, (2019) 10 SCALE 834. So far as the claim of pay protection is concerned that has not been decided by the apex Court.

5. Mr. A.K. Mishra, learned Additional Government Advocate appearing for opposite parties contended that since the claim of pensionary benefit has been covered by the judgments of the apex Court, direction may be issued to calculate and pay the same in accordance with law.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, it appears that admittedly the petitioners were initially joined as Ad hoc Judges in the Fast Track Courts and pursuant to judgment of the apex Court in ***Brij Mohan Lal*** (supra), since they opted for regularization they appeared in the written examination and on being qualified, they are allowed to continue as Additional District Judges in the regular cadre. But here question arises whether the period of services rendered by them as Ad hoc Judges in the Fast Track

Courts can be counted for pensionary benefit. This question is no more res integra in view of judgments of the apex Court in ***Mahesh Chandra Verma*** and ***Kumari C. Yamini*** (supra). The period of past services rendered as Ad hoc Judges in the Fast Track Court should be taken into consideration for determination of pensionary benefit in terms of the judgment of the apex Court as mentioned above. So far as seniority is concerned, the same has also been granted to the petitioners.

7. With the above observation & direction, the writ petition stands disposed of.

8. Issue urgent certified copy as per rules.

Alok/Subhasmita

