

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OAC) No.1889 of 2003

Minaketan Mallick & Others Petitioners

-versus-

State of Odisha & Others Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
28.02.2023**

Order No

- 06.** 1. This matter is taken up through Hybrid Mode.
2. Heard Mr. C. R. Pattnaik, learned counsel for the Petitioners and Mr.A. P. Das, learned Addl. Standing Counsel for the State.
3. The present Writ Petition has been filed challenging the disengagement of the Petitioners issued by the Opposite Party No.3 vide letter dated 29.03.2003 under Annexure-4.
4. Learned counsel for the Petitioners contended that the Petitioners while continuing as NMRs they were retrenched on being found surplus vide the impugned letter under Annexure-4. It is further contended that by the time the Petitioners were so disengaged, they have completed the minimum required period of service for their absorption in the regular establishment as per the decisions taken by the Government, which provides for absorption of a NMR/DLR on completion of 10 years of continuous engagement.

4.1. It is also contended that similarly situated persons were also allowed to continue without being disengaged and basing on the order passed by this Court as well as the Hon'ble Apex Court, similarly situated persons were reinstated in their work and allowed to retire on attaining the age of superannuation. Because of the pendency of the present writ petition for the last 20 years, the authorities have sat over the matter without taking any further decision for their reinstatement.

4.2. Accordingly, it is contended that the order of disengagement so passed under Annexure-4 is not sustainable in the eye of law and are liable to be interfered with.

5. Mr. A.P. Das, learned Addl. Standing Counsel for the State on the other hand made his submission basing on the stand taken in the counter affidavit. It is contended that all the Petitioners were disengaged in the year 2003 on being found surplus and in the meantime most of them have attained the age of superannuation, save and except one Petitioner.

5.1. It is also contended that since the Petitioners have attained the age of superannuation, there is no question of reinstatement at present. Accordingly, it is contended that the prayer as made in the writ petition has become infructuous.

6. Having heard learned counsel for the Parties and taking into account the submission made by Mr.

Pattnaik that similarly situated persons were allowed to continue and are now in receipt of pension and pensionary benefits, this Court while disposing the Writ Petition permits the Petitioners to make individual applications with regard to sanction of pension and pensionary benefits in their favour taking into account their past service and the benefit extended in favour of similarly situated employees. It is observed that if individual applications are filed by the Petitioners before Opposite Party No.1 within a period of three weeks from today, Opposite Party No.1 shall take a lawful decision on the same within a further period of three months. It is however observed that while taking such a decision, the stand taken by the Petitioners that similar benefit has been extended shall be taken into consideration.

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

8. Issue urgent certified copy as per rules.

(Biraja Prasanna Satapathy)
Judge

Subrat