

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15648 of 2022

Akshaya Jena and another

....

Petitioners

Mr. Gyanaranjan Sethi, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr.P.C. Das, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

04.07.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. Learned counsel for the Petitioners states that the Petitioners have been continuing as Casual Labourers on NMR basis in Diary Farm Remuna, Bhadrak. but till date they have not been regularized, although more than 15 years have passed in the meantime. He has referred to the case of *State of Karnataka vs. Umadevi*, reported in *2006(4) SCC 1*, wherein in *Paragraph-53*, the apex Court has held that the State Governments and their instrumentalities should take steps to regularize as a one-time measure the services of such irregularly appointed who have worked for ten years or more in duly sanctioned posts. Similar view has also been taken by the apex Court in the case of *State of Karnataka and others vs. M.L.Keshari and*

others, reported in **2010 (II) OLR (SC) 982**, wherein in Paragraph-7 the apex Court has held as follows:

“7. It is evident from the above that there is an exception to the general principles against ‘regularization’ enunciated in *Umadevi* if the following conditions are fulfilled:

- (i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.
- (ii) The appointment of such employee should not be illegal even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.

4. In that view of the matter, since the Petitioners are continuing as Casual Labourers on NMR Basis under the Diary Farm Remuna, Bhadrak and completed 15 years of service in the meantime and even though their appointment is irregular they should be regularized in service in view of the judgments of the apex Court in *Umadevi* and *M.L.Keshari (supra)*, as well as *Amarkanti Rai vs. State of Bihar and others*, reported in **(2015) 8 SCC 265**.

5. In view of such position, the opposite parties are directed to regularize the service of the Petitioners within a period of three months from the date of passing of this order.

6. With the aforesaid observation and direction, the writ petition is allowed.
7. Urgent certified copy be granted on proper application.

(A.K. Mohapatra)
Judge

U.K.Sahoo

