

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 22775 of 2015

State of Odisha and Another

.....

Petitioners

Mr. S. Nayak, ASC

Vs.

Kalpana Pattnaik and Anr.

.....

Opposite Parties

Mr. M.K. Rath, Adv.

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

26.08.2022

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Nayak, learned Additional Standing Counsel appearing for the State-Petitioners and Mr. M.K. Rath, learned counsel for the opposite party no.1.

3. The State and its functionaries have filed this writ petition challenging the order dated 23.06.2015 passed in O.A. No. 3544 of 2013, by which the Odisha Administrative Tribunal, Principal Bench, Bhubaneswar has directed the State-Petitioners to consider the case of opposite party no.1 by antedating her regularization with effect from 01.08.2001 and extend all consequential benefits within a period of two months.

4. Mr. S. Nayak, learned Additional Standing Counsel appearing for the State-Petitioners contended that since the opposite party claims for regularization of her service from 01.08.2001, the benefit is not admissible to her. It is stated that in the meantime the service of the opposite party no.1 has already been regularized w.e.f. 21.07.2006. Thereby, antedating her regularization from 01.08.2001 cannot sustain. Consequentially, he seeks for quashing of the order dated 23.06.2015 passed in

O.A. No. 3544 of 2013.

5. Mr. M.K. Rath, learned counsel for the opposite party no.1 vehemently contended that the opposite party was appointed as a Tracer on ad hoc basis initially for 89 days, pursuant to Annexure-3 and thereafter the said ad hoc appointment was extended from time to time with artificial break. For the last time, her ad hoc appointment was extended, vide order dated 06.08.1999, which period was expired on 20.09.1999. As her service was not extended any further, she approached the tribunal by filing O.A. No. 2393 of 1999 wherein interim order was passed to allow her to continue. Finally, the said original application was disposed of on 01.08.2001 with a direction for her appointment as a Tracer whenever vacancy ear-marked for the category, to which she belonged, is available, and till then she may be allowed to work on ad hoc basis, if there is work to keep her engaged. But subsequently, the service of opposite party no.1 was regularized w.ef. 21.07.2006 vide Annexure-7 to the original application. But fact remains, since opposite party no.1 was continuing on ad hoc basis from 01.08.2001, she claimed that the same should be antedated to 01.08.2001 from 21.07.2006. After due adjudication, the tribunal directed for antedating her regularization to 01.08.2001 and extend all consequential financial benefits. Thereby, no illegality or irregularity has been committed by the tribunal.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that admittedly opposite party no.1 was engaged as a Tracer on ad hoc basis initially for a period of 89 days and thereafter the said ad hoc appointment was

extended from time to time with artificial break and the last extension was made, vide order dated 06.08.1999, which was expired on 20.09.1999. Thereafter, when the said appointment was not extended, the petitioner approached the tribunal by filing O.A. No. 2393 of 1999 wherein interim order was passed to allow her to continue. Finally, the said original application was disposed of on 01.08.2001 with a direction for her appointment as a Tracer whenever vacancy ear-marked for the category, to which she belonged, is available, and till then she may be allowed to work on ad hoc basis, if there is work to keep her engaged. Pursuant to such order, the opposite party no.1 was allowed to continue in service. But subsequently when earmarked vacancies are made available, her service was regularized on 21.07.2006. But fact remains, since opposite party no.1 had rendered service from 01.08.2001, she claimed that her date of regularization should be antedated to 01.08.2001 from 21.07.2006 and on consideration of the same the tribunal directed the petitioners to consider her case by antedating her regularization to 01.08.2001 and extend all consequential service and financial benefits within two months. Against the said order, the petitioners have filed this writ petition.

7. It is a matter of regret that when the tribunal directed the authorities to consider the grievance of the opposite party no.1 taking into consideration the ad hoc service rendered by her in the department for regularization, instead of doing so, the authorities have straightway approached this Court by filing the present writ petition and trying to shirk the responsibility on the Court. Therefore, this Court is of the considered view that even remaining in the higher position in the administrative posts, the

authorities are acting with highhandedness without any application of mind.

7. In the above view of the matter, this Court is not inclined to entertain this writ petition, which is hereby dismissed

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE

Ashok/Kishore

