

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21363 of 2022

Debendranath Panda *Petitioner*

Mr. Akshaya Kumar Pandey, Adv.

-versus-

State of Odisha and Ors. *Opposite Parties*

Mr. Debasis Mohapatra, SC

(for S & ME Deptt.)

CORAM:

DR. JUSTICE S.K. PANIGRAHI

ORDER

26.09.2022

Order

No.

01. 1. This matter is taken up through hybrid arrangement.
2. Heard learned counsel for the parties.
3. Since the nature of dispute of the connected matters i.e. W.P.(C) No.20325 of 2022 and batch of Writ Petitions is different, all the connected matters are delinked from this Writ Petition.
4. In this Writ Petition, the Petitioner who is serving as a Peon in Madhusudan Girls' High School, Kapuria, under Cuttack Municipal Corporation, Cuttack, in the district of Cuttack, seeks to quash the order of rejection of his representation dated 28.10.2021 under Annexure-5 passed by the Opposite Party No.1/ Principal Secretary, School and Mass Education Department, Odisha,

Bhubaneswar. He further seeks a direction from this Court to the Opposite Parties to regularize his service with effect from 28.02.2004 instead of 12.08.2016 as per the Resolution dated 28th February, 2004 passed by the Secretary to Government, Housing and Urban Development Department, Odisha, Bhubaneswar. He also prays for a direction to the Opposite Parties to grant him all consequential service and financial benefits as a regular employee with effect from 28.02.2004.

5. At the outset, learned counsel for the Petitioner submits that this Court has earlier decided the similar issue in the case of *Harapriya Patra –vrs. State of Odisha and Ors.* vide common judgment dated 25.08.2022 passed in WPC (OAC) No.2709 of 2016 and batch of Writ Petitions. Hence, he submits that this Writ Petition may be disposed of in the light of the judgment passed in the case of *Harapriya Patra* (supra).

6. Learned Standing Counsel for the Department of School and Mass Education submits that he has no objection, if this matter is disposed of in the light of the judgment passed in the case of *Harapriya Patra* (supra).

7. On perusal of the records and the judgment passed in the case of *Harapriya Patra* (supra), it appears that

similar issue has already been decided by this Court in the said judgment which was disposed of on 25.08.2022.

The ordering portion of the said judgment is as follows.

“63. Therefore, this Court is inclined to iterate that the Petitioner has been appointed in the post of Trained Graduate Post since 24.01.1994 and has served more than 28 years as Trained Graduate Teacher against a substantive vacant post. The State Government itself in its Resolution No.4942 dated 28.02.2004 under Clause-7 decided to declare the Non-Regular Teaching and Non-teaching staff as regular Government Servant as on date of takeover i.e. on 28.02.2004. Therefore, when the Government itself has decided to regularise the service of the staffs like the present Petitioner and declare them as Government Servant, no departure from the same will be permissible in the law and it is incumbent on the part of the Opposite Parties to provide regular service benefits as due and admissible to the present Petitioner with effect from the date of her initial joining as Trained Graduate Teacher.

64. In light of the above-mentioned facts and precedents cited hereinabove, the Court is not inclined to allow for the regularization of the service of the Petitioner from 1994. The Opposite Parties are hereby directed to regularize the services of the Petitioner from the date of Government resolution i.e. 28.02.2004 and extend the benefits for the same.

65. Accordingly, all the Writ Petitions are disposed of.”

8. In such view of the matter, this Writ Petition is disposed of in the light of the common judgment dated 25.08.2022 passed in WPC (OAC) No.2709 of 2016 and batch of Writ Petitions by quashing the order dated 28.10.2021 under Annexure-5 passed by the Opposite Party No.1/ Principal Secretary, School and Mass Education Department, Odisha, Bhubaneswar. However, the authorities shall examine the present Writ Petition in the light of the common judgment dated 25.08.2022 passed in WPC (OAC) No.2709 of 2016 and if the issue involved therein is squarely covered the present case, the authorities shall consider the Petitioner's case as expeditiously as possible preferably within a period of three months from the date of production of a copy of this order.

9. Urgent certified copy of this order be granted on proper application.

(Dr. S.K. Panigrahi)
Judge

B.Jhankar