

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.21658 of 2022

Bankabihari Mohanty

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

20.09.2022

Order No

1. 1. This matter is taken up through Hybrid Mode.
2. Heard Mr. G.R.Sethi, learned counsel for Petitioner and Mr. A.P.Das, learned Addl. Standing Counsel for the State- Opposite Parties.
3. The present Writ Petition has been filed with the following prayer:-

“(i) To direct the opposite parties to regularize the service of the Petitioners as Sweeper-cum-Night watchman with effect from 9.8.1991 as per Finance Department Resolution dated 15.05.1997 taking into account the ratio decided in the case of Secretary, State of Karnatak versus Umadevi (AIR 2006 SC 1806) and State of Karnataka Vrs. M.L.Keshari (2010) 9 SCC 243 and to pay the regular and arrear salary along with other service and financial benefits within a stipulated period”.

4. Learned counsel for the Petitioner submits that even though the Petitioner is continuing as a Sweeper-cum-Night Watchman in the establishment of Opposite Party No.3 since 9.8.1991 on daily wages basis, but till date no action has been taken by the Opposite Parties in absorbing the petitioner in the regular establishment.

5. It is submitted that the claim of the Petitioner for such absorption in the regular establishment is not only covered by the Resolution issued by the G.A. Department on 15.05.1997, but also as per the decisions of the Hon'ble Apex Court in the case of **Secretary, State of Karnataka vs. Uma Devi (3), (2006) 4 SCC-1, State of Karnatak vs. M.L.Keshari, (2010) 9 SCC 247, Nihal Singh & Others vs. State of Punjab & Others, 2013 (14) SCC 65 and Amarkant Rai vs. State of Bihar & Others, 2015 (8) SCC 265.**

6. Accordingly, Mr. Sethi, learned counsel for the Petitioner submitted that appropriate order be issued to the Opposite Party No.3 to take a decision on the Petitioner's claim for absorption within a stipulated time.

7. Mr. Das, learned Standing Counsel for the State on the other hand submitted that the Petitioner at no point of time has agitated his claim before the said opposite party prior to filing of the present Writ Petition and the Petitioner be asked to move the authority first.

8. Heard learned counsel for the Parties.

9. Taking into account the fact that the Petitioner is continuing on daily wages basis since 9.8.1991, this Court directs the Opposite Party No.1 to take a final decision on the claim of the Petitioner for his absorption taking into account the resolution issued on 15.5.1997 and the decisions of the Hon'ble Apex Court as cited (supra) as well as the decision of this Court in a catena of decisions. The Opposite Party No.1 is directed to take a final decision within a period of three months from the date of receipt of this order. However, it is further observed that since the Petitioner is admittedly continuing on daily wages

basis since 1991 favourable decision be taken in the matter of absorption of the Petitioner.

10. With the aforesaid observation and direction, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

