

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.23530 of 2022

Ajay Kumar Samal

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

21.10.2022

Order No

- 2.** 1. This matter is taken up through hybrid mode.
- 2.** Heard learned counsel for the Petitioner as well as learned counsel for the State-Opposite Parties.
- 3.** The present writ petition has been filed by the Petitioner with a prayer to quash the order dated 18.11.2019 passed by the Joint Secretary to Government of Odisha, Department of Water Resources under Annexure-12 and order dated 09.05.2022 passed by the Additional Chief Secretary to Government of Odisha, Department of Water Resources under Annexure-13.
- 4.** It is submitted by the learned counsel for the Petitioner that the Petitioner was engaged as Mate on NMR basis w.e.f. 16.7.1983 and even though he was entitled for his absorption in the regular establishment,

no action was taken in absorbing the Petitioner in the regular establishment in terms of the resolution issued by the Government at different point of time, more particularly, the resolution issued by the Finance Department on 15.5.1997 under Annexure-1. It is further submitted that the State-Opposite Parties also never took any step to absorb the Petitioner in the regular establishment in terms of the decision of the Hon'ble Apex Court in the case of **Secretary, State of Karnataka & 7 others -Vrs.- Uma Devi & Others, reported in 2006 SCC (L&S) 753**. It is further submitted that in spite of absorbing the Petitioner in the regular establishment, the Petitioner vide order under Annexure-12 though was brought to the work charged establishment w.e.f. 1.3.2009, but the financial benefit was only extended from the date of joining in the said establishment. It is further submitted that claiming regularization in service, the Petitioner when approached this Court in W.P.(C) No.24451 of 2021, this Court vide order dated 1.9.2021 disposed of the said writ petition with a direction to the Opposite Party No.1 to consider the Petitioner's claim as made in Annexure-14 to the said writ petition. It is further submitted that without considering the long continuance of the Petitioner as an NMR w.e.f. 16.7.1983 and in the work charged establishment w.e.f. 1.3.2009, the claim of the Petitioner was rejected vide the order dated 9.5.2022 under Annexure-13. It is

further submitted that the Petitioner after continuance for more than 35 years retired from service w.e.f. 30.11.2018 while continuing in the work charged establishment. It is further submitted that since the Petitioner retired from service while continuing in the worked charged establishment, he was deprived from getting the pension and other pensionary benefits as provided in OCS Pension Rules, 1992.

5. Making all such submissions, learned counsel for the Petitioner submitted that similar issue after being dealt with by this Court in WPC (OAC) No.4660 of 2016, this Court, while disposing the matter vide judgment dated 26.9.2022, has directed the Opposite Parties to grant similar benefits as has been prayed for by the Petitioner in the present writ petition. Accordingly, it is submitted that the present writ petition be disposed of in terms of the judgment dated 26.9.2022 passed by this Court in WPC (OAC) No.4660 of 2016.

6. Learned counsel for the State-Opposite Parties also did not dispute the aforesaid judgment passed by this Court on similar issue as relied on by the learned counsel for the Petitioner.

7. In view of such submission made by the learned counsel for the parties, this Court, while quashing the order dated 9.5.2022 passed by the Additional Chief

Secretary to Government of Odisha, Department of Water Resources at Annexure-13, dispose of the writ petition in terms of the judgment dated 26.9.2022 passed by this Court in WPC (OAC) No.4660 of 2016.

8. The writ petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Debasis

