

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 23576 of 2022

Natabara Behera

.....

Petitioner

Mr. B.K. Mohanty, Advocate

Vs.

*Principal Secretary to
Government of Odisha, BBSR*

.....

Opposite parties

Mr. S. Rath, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

31.10.2022

Order No.

01

This matter is taken up through hybrid mode.

2. Heard Mr. B.K. Mohanty, learned counsel appearing for the petitioner and Mr. S. Rath, learned Additional Standing Counsel for the State.

3. The petitioner has filed this writ petition seeking direction to the opposite parties to regularize his service against the available sanctioned vacancy of peon from the date of completion of 10 years contractual period with all service and financial benefits.

4. Mr. B.K. Mohanty, learned counsel appearing for the petitioner contended that similarly situated persons have approached this Court by filing different writ petitions, one of such writ petition is bearing W.P.(C) No. 27352 of 2017 (*Sabita Sahoo v. Commissioner-cum-Secretary to Govt. of Odisha, Department of Skill Development and Technical Education*), which was disposed of vide order dated 27.08.2018 by observing that since the petitioner has been continuing in her post and in the meantime rendered nearly 20 years of service, even though her appointment is irregular, she should be regularized in service in view of the judgment of the apex Court in the case of *Secretary, State of Karnataka v. Umadevi*, 2006 (4) SCC 1, *State of Karnataka v. M.L. Keshari*, 2010 (II) OLR (SC) 982, *Kipila Hingorani v. State of*

Bihar, (2003) 6 SCC and *Binan Kumar Mohanty v. Water and Land Management Institute (WALMI)*, 2015 (I) OLR 347 and accordingly direction was given to opposite parties 2 and 4 therein to regularize the services of the petitioner within a period of two months. The said order of this Court was challenged by the opposite parties in W.A. No. 498 of 2018. Similar orders were also challenged in different writ appeals, such as W.A. Nos. 230, 231, 234 and 235 of 2018. The Division Bench affirmed the order passed by the Single Bench vide common order dated 06.12.2021. The opposite parties also challenged the order passed by the Division Bench before the apex Court in Special Leave to Appeal (C) No (s) 4893/2022, which was dismissed by the apex Court vide order dated 17.05.2022. As a consequence thereof, the benefit has already been extended to the similarly situated persons. But now the opposite parties have taken a stand that those who have not come to this Court and obtained order in their favour, their services will not be regularized, which is highly discriminatory one.

5. In view of such position, this Court disposes of the writ petition directing opposite party nos. 2 and 3 to regularize the services of the petitioner taking into consideration the order of this Court, which has been made confirmed in the Writ Appeal and as well as in SLP as mentioned above and necessary step for regularization be taken within a period of three months from the date of communication of the certified copy of this order.

6. With the above observation/direction, the writ petition stands disposed of.

7. Issue urgent certified copy as per rules.

Arun

(DR. B.R. SARANGI, J.)