

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No.157 of 2010

Pravararajan Kumar Panda

.....

Petitioner

Mr. S.K. Subudhi, Advocate

Vs.

Water Resources Department

.....

Opposite parties

*Mr. N.K. Praharaj, Standing Counsel
for the State*

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

25.01.2022

Order No.

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This matter is taken up through video conferencing mode.

2. Heard Mr. S.K. Subudhi, learned counsel for the petitioner and Mr. N.K. Praharaj, learned Standing Counsel for the State.

3. The petitioner after his retirement from service as Grade-I Welder and having received the benefit as admissible to him at the time of retirement has filed this writ petition after eight years of his retirement to declare him as a regular work charged employee of Poteru Irrigation Project, since similarly situated persons like Chaitanya Gouda, M.N. Baig, Arakhita Nayak and Pangi Madhu have already been regularized in view of the order passed by the Tribunal in O.A. No. 622 of 1999, which has been affirmed by this Court in OJC No. 12087 of 1992 and also by the apex Court in SLP (C) No. 7018 of 2003.

4. Mr. Subudhi, learned counsel for the petitioner contended that the petitioner stands on the same footing as that of Chitanya Gouda and others as indicated above, whose services have been regularized pursuant to the order passed by the Tribunal in O.A. No. 622 of 1999, which has been affirmed by this Court in OJC No. 12087 of 1992 and

also by the apex Court in SLP (C) No. 7018 of 2003. Therefore, the petitioner is entitled to avail the said benefit of regularization and pension.

5. Mr. N.K. Praharaj, learned Standing Counsel for the State vehemently contended that the ratio of the aforesaid cases are distinguishable with the case of the petitioner since those persons while continuing in service had approached the Tribunal for their regularization. However, the petitioner, eight years after his retirement has approached the Tribunal after knowing the order passed in the aforesaid cases, which is not permissible. This fact has also been admitted by the petitioner that he retired from service in the year 2002 and got the retiral benefit as due and admissible to him. However, he approached the Tribunal in the year 2010, i.e. much beyond the limitation prescribed under the Tribunal Act. Referring to the counter affidavit, learned Standing Counsel for the State contended that in Civil Appeal No. 1915-1917 of 2003, the apex Court vide order dated 02.03.2006 while remanding the matter to the Tribunal observed that the previous orders which are also default orders shall not be treated as precedence in future cases. Consequence thereof the Tribunal in O.A. No. 447 of 2006 (Hrusikesh Singh v. State of Odisha and others) passed an order on 02.09.2009 by dismissing the application being devoid of merit. Therefore, the petitioner is not entitled to the benefit as claimed by him in the present writ petition.

6. Having heard learned counsel for the parties and after going through the record, it is a fact that the petitioner joined as Welder Gr.III on 17.10.1969 and subsequently posted as Welder Gr.I and allowed to discharge his duties under the Work-Charged Establishment from time to time as and when required in the organization. As Work Charged employee, his service was guided as per Odisha Work-

Charged Employee (appointment and Conditions of Service) Instructions, 1974 of O.P.D.W. Code Vol-II, Appendix-III and he has been paid his retirement benefits such as Gratuity and E.P.F., Pension as per his entitlement. After the order was passed by the Tribunal in O.A. No. 622 of 1999 on 22.03.1999, which has been affirmed by this Court in OJC No. 12087 of 1992 and also by the apex Court in SLP (C) No. 7018 of 2003 vide order dated 10.04.2003, the petitioner approached this Court, i.e. after 8 years of his retirement claiming the benefit of regularization of service and consequential benefits as due and admissible to him. Similar question had come up for consideration before the Apex Court in Civil Appeal No. 1915-1917/2003 and the apex Court while disposing of the said case vide order dated 02.03.2006 remanded the matter to the Tribunal and observed that the previous orders which are also default orders, shall not be treated as precedence in any future cases and the State shall be entitled to place on records all relevant materials, circulars and rules and put forward its contention with regard to disentitlement of work charged employee to pensionary benefits. In compliance to the same, in O.A. No. 447 of 2006 (Hrusikesh Singh v. State of Odisha and others), the state placed all relevant materials, circulars and rules. The Tribunal while considering the same vide order dated 02.09.2006 dismissed the application being devoid of merit.

7. In view of the above position and since the petitioner has approached the Tribunal at a belated stage being a fence sitter, he cannot claim the benefit of regularization and as such the writ petition merits no consideration and the same stands dismissed.

8. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy,

subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's Notice No. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

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

