

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) NO.353 OF 2018

Sanatan Panda

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

26.9.2022

Order No

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. Nihal Rath, learned counsel on behalf of Mr. S.N. Patnaik, learned counsel appearing for the petitioner and Mr. B. Panigrahi, learned Addl. Standing Counsel.

3. The present writ petition has been filed challenging the order dated 1st February, 2018 passed by Opp. party No.1 under Annexure-7 wherein the prayer of the petitioner for regularization has been rejected on the ground that his case is not covered as per the decision of the Hon'ble Apex Court in the case of Amarkanta Ray Vs. State of Bihar and others and on another ground that since the petitioner was engaged on daily wage basis after 12.4.1993, he cannot claim for regularization in view of the provision contained in the Finance Department Resolution dated 4.9.2012. Mr. Rath, learned counsel for the petitioner submitted that the petitioner was in fact engaged as a Cook in Saheed

Laxman Nayak Adivasi Hostel, Unit-1, Bhubaneswar on contractual basis vide office order dated 10.12.1998. It is also submitted that the petitioner was so engaged on contractual basis vide office order dated 10.12.1998, in a vacancy arose due to the retirement of the incumbent employee holding that post. Mr. Rath, learned counsel for the petitioner further submitted since the petitioner is engaged as a contractual cook w.e.f 10th December, 1998, his claim for absorption in the regular establishment is covered by the notification issued by the G.A. Department on 17.9.2013 and 16.1.2014. It is also submitted that the claim of the petitioner is also covered by the decision of this Court rendered in the case of Patitapaban Dutta Das Vs. State of Orissa & Others passed in W.P.(C) No. 19951 of 2021. It is accordingly submitted that since the petitioner was engaged on contractual basis, the rejection of claim of the petitioner by treating him as daily wage is not just and proper and the opp. party No.1 has not applied his mind while dealing with the petitioner's claim.

4. Mr. Panigrahi, on the other hand made his submission basing on the stand taken in the counter affidavit. Mr. Panigrahi, submitted that since the petitioner was engaged on daily wage basis, his claim has been rightly rejected as he is engaged after 12.4.1993.

5. This Court after going through the materials available on record finds that the petitioner was engaged on contractual basis vide office order dated 10.12.1998 and the petitioner is continuing the said capacity till date. Therefore, the claim of the petitioner for his absorption in the regular establishment is squarely covered by the G.A Department Resolution issued on 17.9.2013 and 16.1.2014 as well as the decision of this Court in Patitapaban Dutta Das's case. Therefore, this Court is inclined to quash the order dated 1.2.2018 passed by Opp. Party No.1 under Annexure-7. While quashing the same, this Court directs the said opp. party to consider the petitioner's claim in terms of the resolution issued by the G.A Department on 17.9.2013 and 16.1.2014 as well as the decision of this Court in the case of Patitapaban Dutta Das's case. The said exercise shall be completed within a period of three months from the date of receipt of this order and order so passed be communicated to the petitioner within that time.

4. The Writ Petition is accordingly disposed of.

(Biraja Prasanna Satapathy)
Judge

Sangita

