

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3048 of 2018

Prasanna Kumar Roul

Petitioner
....
Mr. Basudev Barik, Advocate

-versus-

State of Orissa and others

Opposite Parties
....
Mr. YSP Babu, AGA for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
12.04.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The writ petition involves the following prayer:
- “(a) That the Respondents may kindly be directed to regularize the service of the applicant in Class-IV post with all financial benefits w.e.f. 06.09.1993 when the juniors of the applicant were regularized in Class-IV post.
- (b) And further direct to the Respondents to make payment all the arrear differential dues after regularized w.e.f. 06.09.1993 within a stipulated period.”
4. Learned counsel for the Petitioner submits that Petitioner has been engaged as Casual Labourer on 24.05.1989 under Live Stock Breeding and Diary Farm, Khapuria, Cuttack, after going through the selection process conducted by the Opposite parties. It is further submitted that even though Petitioner has been working continuously as a Casual Labour in LBD Farm, Khapuria since the date of his engagement, but till date his case for regularization has

not been considered from the date i.e. 06.09.1993 his juniors were regularized. Such action of the Authority is illegal, arbitrary and uncalled for. However, he has referred to the case of ***State of Karnataka vs. Umadevi***, reported in ***2006 (4) SCC 1***, wherein in Paragraph-53, the apex Court has held that the State Governments and their instrumentalities should take steps to regularize as a one-time measure, the services of such irregularly appointed employees, who have worked for ten years or more in duly sanctioned posts. Similar view has also been taken by the apex Court in the case of ***State of Karnataka and others vs. M. L. Keshari and others***, reported in ***2010 (II) OLR (SC) 982***, wherein in paragraph-7, the Hon'ble apex Court has held as follows :

“7. It is evident from the above that there is an exception to the general principles against ‘regularization’ enunciated in *Umadevi* if the following conditions are fulfilled:

- (i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.
- (ii) The appointment of such employee should not be illegal even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.”

5. In that view of the matter, since Petitioner is continuing as a NMR employee and completed more than 25 years of service in the

meantime and even though his appointment is irregular, he should be regularized in service in view of the judgments of the Hon'ble apex Court in the case of *Umadevi (supra)* and *M.L. Keshari (supra)* as well as in the case of *Amarkanti Rai vs. State of Bihar and others*, reported in **(2015) 8 SCC 265**. This Court further directs that if it is found that the persons who are juniors to the Petitioner, have been regularized, the case of the Petitioner shall also be considered in terms of the judgments cited hereinabove. The entire exercise shall be completed within a period of three months from the date of production of certified copy of this order.

6. With the aforesaid observation and direction, the writ petition stands disposed of.

7. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge