

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.1628 of 2018

Atala Bihari Mohanty & Ors. Petitioners

-versus-

State of Odisha & Ors. Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
24.11.2022**

Order No

02. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. K.P. Mishra, learned Senior Counsel for the Petitioners and Mr. D.K. Mohanty, learned Additional Standing Counsel for Opposite Parties.

3. The case of the Petitioners is to the effect that they are working as contractual Peons since 6th March, 2007 in different Sub-Treasuries under the Directorate of Treasuries and Inspection, Odisha, Bhubaneswar being appointed pursuant to due process of selection conducted by the Director of Treasuries. Annexure-4 is copy of the proceedings of selection committee dated 9th October, 2006, which reveals that out of 14 candidates appeared in total pursuant to the advertisement, only six were selected and got appointment including these three Petitioners.

4. Mr. Mishra, learned Senior Counsel submits on behalf of the Petitioners that other three selected candidates, who were appointed along with the present Petitioners, have in the meantime been regularized in the posts by the Director of Treasuries vide his order

dated 3rd January, 2014 under Annexure-7 series. But present Petitioners are left without any valid reason.

5. The State have filed their counter dated 8th November, 2017 stating that, no contractual appointment would be regularized in terms of G.A. Department Resolution date 16th January, 2014 unless the required eligibility conditions are fulfilled. The same, as mentioned in the counter affidavit are reproduced below:

“(i) Contractual appointment / engagement against contractual posts created with the concurrence of Finance Department on abolition of the corresponding regular posts or contractual posts created with the concurrence of Finance Department without abolition of any corresponding regular post in case of new offices or for strengthening of the existing offices / services.

(ii) Such contractual appointments / engagements must have been made following the recruitment procedure prescribed for the corresponding regular posts and

(iii) Principle of reservation of posts must have been followed in case of such contractual appointments / engagements.”

6. It is further stated in the counter affidavit that those cases of regularization of other three peons appointed along with the Petitioners are subject to review by the High Power Committee.

7. Upon hearing both parties, it reveals from the counter affidavit that the State neither denies due process of selection in appointment of the Petitioners nor it alleges any violation of required procedure therein including the provisions of the ORV Act, 1975. In other words, the State Authorities without saying anything about violation of statutory requirement and without assigning any ground

to not regularize the appointments of present Petitioners has admitted regularization of other three peons in the meantime.

8. The fact of regularization of other three peons including Barun Kumar Tripathy and Ajay Kumar Pradhan, as revealing from Annexure-7 series is not disputed. No reason has been assigned in the counter affidavit as to why these present Petitioners have been left out and on what criteria other three peons have been picked up for regularization. Mr. Mishra relies on order dated 27th July, 2022 of this court rendered in W.P.(C) (OAC) No.2753 of 2018, where this court in a similar case of appointment of peon, has directed for regularization of his service from the date he completed 6 years in terms of the Odisha Group-C and Group-D Posts (Contractual Appointment) Rules, 2013.

9. When the appointment of the Petitioners in due process of selection is not disputed and vacancies in the regular posts are there and further, similarly situated appointees selected in the same recruitment process have been regularized, no reason is left to deny regularization of the present Petitioners who have been appointed in due process of law and no violation of procedure has been alleged against them.

10. Accordingly, the prayer is allowed and the Opposite Parties are directed to regularize the services of the present Petitioners from the date they completed six years in their posts in contractual appointments in terms of the Odisha Group-C and Group-D Posts (Contractual Appointment) Rules, 2013. The aforesaid direction be carried out within four months from the date of production of certified copy of this order.

11. With aforesaid observations and directions the writ petition is disposed of.

12. An urgent certified copy of this order be issued as per rules.

(Biraja Prasanna Satapathy)
Judge

Sneha

