

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OA) No.1002 of 2018

Damburu Dalai **Petitioner**

-versus-

State of Odisha & Ors. **Opposite Parties**

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
22.09.2022**

Order No

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

2. Heard Mr. R.S. Pattnaik, learned counsel for the Petitioner and Mr. B. Panigrahi, learned ASC appearing for the Opp. Parties.

3. The present writ Petition has been filed with the following prayer:-

“(i) Admit and allow the Original Application.

(ii) Hon'ble Tribunal may graciously be pleased to direct the respondents to consider for regularization to the work charge establishment and Pay Band and pay etc, under their administrative control taking into long service of applicant and in view of Hon'ble Apex Court Judgment under Annexure-10 within a stipulated period.

(iii) That, applicant also seeks the intervention of this Hon'ble Tribunal for issuance of such other appropriate directions as may be necessary in the facts and circumstances of the case.”

4. It is submitted that the Petitioner though was engaged as a NMR prior to the cut-off date i.e.12.04.1993, but when he was not absorbed in the regular establishment in spite of his long continuance the present writ Petition was filed with the aforesaid prayer.

5. Mr. Pattnaik, learned counsel for the Petitioner submitted that since the Petitioner is admittedly continuing prior to 12.04.1993 and the said fact is reflected under Annexure-1, the Petitioner is eligible for his absorption in the regular establishment in view of the decision of the Hon'ble Apex Court in the case of ***State of Karnatak vs. M.L. Keshari, (2010) 9 SCC 247, Nihal Singh & Others vs. State of Punjab & Others, 2013 (14) SCC 65 and Amarkant Rai vs. State of Bihar & Others, 2015 (8) SCC 265.***

6. Accordingly, it is submitted that necessary direction be issued to the Opp. Parties to consider the claim of the Petitioner for his absorption in the regular establishment.

7. Mr. Panigrahi on the other hand submitted that the Petitioner was engaged after 12.04.1993 through Labour Contractor and accordingly he is not ineligible for his absorption in terms of the Finance Department resolution issued on dt.15.05.1997.

8. In view of such contrary stand taken by the learned counsel appearing for the Parties, this Court while disposing the writ Petition permits the Petitioner to move appropriate application before the O.P. No. 1 with a prayer to absorb him in the regular establishment.

9. It is observed that if any such application is moved in that regard within a period of two (2) weeks from today, O.P. No. 1 shall take a lawful decision on the same within a further period of two (2) months. It is however, observed that while considering the claim of the Petitioner O.P. No. 1 shall verify the record with regard to the initial date of engagement and if it is found that the Petitioner is in fact engaged prior to 12.04.1993 necessary steps be taken with

regard to the absorption of the Petitioner in the regular establishment by following the decisions of the Hon'ble Apex Court as cited hereinabove. The order so passed be also communicated to the Petitioner within the aforesaid time period.

10. The writ Petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha

