

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) Nos. 2747, 2748, 2749, 2750, 2751 of 2016
and W.P.(C)(OAC) Nos. 273, 555, 2728, 2789 of 2017

Jeheru Lal Dip

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

26.07.2022

Order No

05.

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

2. Heard Mr. M.R. Panda, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned standing counsel appearing for the State.

3. Since common question has been raised in all these writ Petitions, all the matters were heard analogously and disposed of by the present common order.

4. All these writ Petitions have been filed with a prayer to mention the date of joining as NMR as the date of joining in govt. service in the service books of the Petitioners. It is submitted that the Petitioners are all engaged as NMR at different point of time and their names were reflected in the gradation list of NMRs issued by the O.P. No. 2 under Annexure-2.

5. It is submitted that while continuing as NMRs, basing on the resolution issued by the Govt. on 15.05.1997 and the order passed by this Court on 21.08.2008 in W.P.(C) No. 5517 of 2008 all the Petitioners were brought over to the regular establishment vide office order dtd.27.02.2009 under Annexure-6. It is submitted that pursuant to the order issued under Annexure-6 when the Petitioners joined in the regular establishment the date of joining in the regular establishment has been indicated as the date of entry into Govt. service in the respective service books of the Petitioners.

6. It is submitted that since the Petitioners were allowed to continue as NMR under the Opp. Parties, the date of joining as NMR should have been reflected as the date of entry into Govt. service in place of the date of entry indicated in the service books of the Petitioners.

7. Mr. Balabantaray, learned Standing counsel on the other hand submitted that since the Petitioners pursuant to the order passed by this Court were brought over to the regular establishment vide order dtd.27.02.2009, the date of joining in the said regular establishment pursuant to the said order is the date of entry into Govt. service.

8. It is also submitted that since the Petitioners continued as NMRs, prior to their being absorbed in the regular establishment, no illegality has been committed by the Opp. Parties by indicating the date of joining in the regular establishment as the date of entry into Govt. service. Mr. Balabantaray accordingly submitted that the prayer made by the Petitioners in the writ Petitions is completely misconceived and should not be entertained by this Court.

9. This Court after going through the materials available on record finds that all the Petitioners were engaged as NMRs under the Opp.

Parties and while so continuing in terms of the order passed by this Court on 21.08.2008, they were brought over to the regular establishment vide order dtd.27.02.2009. Therefore, this Court finds no illegality in taking the date of joining in the regular establishment as the date of entry into Govt. service. Accordingly, this Court is not inclined to entertain the prayer as made in the writ Petitions and reject such prayer.

10. However, while parting with the matter, this Court observes that if on retirement of the Petitioners, the period of qualifying service falls short, for grant of pension and other pensionary benefits, then the Authorities are at liberty to take that much period of NMR service towards qualifying service for grant of such pensionary benefits, if there is no other legal impediment.

11. The writ Petitions are disposed of accordingly.

12. Photo copy of the said order be placed in the connected cases.

(Biraja Prasanna Satapathy)
Judge

Sneha