

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) NO.210 OF 2015

In the matter of an application under Section 19 of
the Administrative Tribunals Act, 1985

Dillip Kumar Das

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

For Petitioner : M/s. R.K. Bisoi

For Opp. Parties: M/s. N.K. Praharaj

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 29.4.2022 & Date of Order:13.5.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up by video conferencing mode.
2. Heard Mr. R.K. Bisoi, learned counsel appearing for the Petitioner and Mr. N. K. Praharaj, learned A.G.A for the State-Opp. Parties.
3. This Writ Petition has been filed by the Petitioner challenging the order dated 16.1.2015 under Annexure-11 wherein the CDPO, Puri Sadar-Opp. Party No.4 was directed to dis-engage the petitioner from his post

forthwith and to report compliance to the Sub-Collector, Puri-Opp. Party No.3.

4. It is submitted by Mr. Bisoi, learned counsel appearing for the Petitioner that the petitioner while working in the Establishment Deptt. in the office of Opp. Party No.4, he was regularized in his service w.e.f 17.9.2013 as per G.A. Deptt. Resolution dated 17.9.20123 and basing on the direction of Sub-Collector-cum-Chairman, I.C.D.S, Puri Sadar vide his letter dated 29.1.2014. It is submitted that since the petitioner was regularized in terms of order dated 14.2.2014 under Annexure-10, there was no occasion on the part of the self-same Sub-Collector, Puri to direct Opp. Party No.4 to disengage the petitioner vide the impugned order dated 16.1.2015 under Annexure-11. It is also submitted that by virtue of interim order passed by the learned Tribunal on 22.1.2015, the Petitioner was continuing as a regular Peon in the office of Opp. Party No.4 and accordingly, it is submitted that the order at Annexure-11 be set aside and the petitioner be allowed to continue as regular Peon in the establishment of Opp. Party No.4.

5. Mr. Praharaj, learned Standing Counsel appearing for the State-Opp. Parties made his

submission in the light of the stand taken by the Opp. Party No.4 in her counter. It is submitted that the Petitioner was engaged as daily wage worker in the establishment of Opp. Party No.4 and at no point of time, he was engaged as a contractual employee. Therefore, the direction issued by the Sub-Collector-cum-Chairman vide his letter dated 29.1.2014 to regularize the service of the petitioner in terms of G.A. Department Resolution No.17.9.2013 is not just and proper. The said Resolution dated 17.9.2013 issued by the G.A. Department was meant for absorption of such contractual employee on completion of six years of service. It is submitted that since the petitioner at no point of time was engaged as contractual employee, Opp. Party No.3 subsequent to his direction issued on 29.1.2014 found that the petitioner is not covered by the guideline issued in the Resolution dated 17.9.2013 and accordingly directed the Opp. Party No.4 to disengage the petitioner vide his communication dated 16.1.2015 under Annexure-11. It is accordingly submitted that no illegality has been committed by Opp. Party No.3 in issuing the order dated 16.1.2015 under Annexure-11

by directing the Opp. Party No.4 to disengage the petitioner .

6. Even though the counter affidavit is filed since 28.4.2017, but no rejoinder affidavit was filed by the petitioner controverting the stand taken in the counter. Mr. Bisoi, learned counsel appearing for the petitioner when vehemently argued that after allowing the petitioner to continue as a regular Peon vide order under Annexure-10, Opp. Party No.3 should not have issued the impugned order dated 16.1.2015 under Annexure-11 with a direction to disengage the petitioner, this Court when posed a question to Mr. Bisoi to show any document regarding appointment of the petitioner as a contractual Peon in the establishment of Opp. Party No.4, Mr. Bisoi failed to provide any such document.

7. It is never the case of the petitioner that he was engaged as a contractual employee and his case is covered by the G.A. Deptt. Resolution dated 17.9.2013, Opp. Party No.3 vide his letter dated 29.1.2014 directed for regularization of the service of the Petitioner and the said order was implemented vide order under Annexure-10. But the said Opp. Party on coming to know that the claim of the Petitioner is not covered by the said

resolution, he rightly issued the impugned order dated 16.1.2015 under Annexure-11 by directing the Opp. Party No.4 to disengage the petitioner forthwith. Since the petitioner at no point of time was engaged as a contractual employee, this Court finds no illegality or irregularity in the direction issued by the Sub-Collector, Puri- Opp. Party No.3 under Annexure-11. Hence, this Court is not inclined to interfere with the impugned order dated 16.1.2015 passed by the Sub-Collector, Puri- Opp. Party No.3 under Annexure-11 and accordingly dismiss the Writ Petition.

8. However, it is observed that since the petitioner is continuing as a daily wage worker, he will be given age relaxation and allowed to take part if at any point of time, Opp. Party No.3 takes step to fill up the post of Peon in the office of Opp. Party No.4 on regular basis.

9. The interim order passed by this Court on 22.1.2015 stands vacated.

10. With the aforesaid observation, the Writ Petition stands dismissed.

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B.P. Satapathy, J.

Orissa High Court, Cuttack
 Dated the 13th May, 2022/sangita