

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C. (O.A.) No.1293 of 2015

Amit Kumar Sethi

....

Petitioner

Mr. C.S. Panda, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Manoj Kumar Khuntia,
Additional Government Advocate

CORAM:

JUSTICE M.S. RAMAN

ORDER

20.06.2022

Order No.

01. 1. This matter is taken up through virtual/physical mode.
2. The Original Application No.1293 of 2015 was filed before the Odisha Administrative Tribunal, Bhubaneswar. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OA) No.1293 of 2015.
3. The Petitioner, a degree engineer, was engaged in the post of Assistant Engineer on contractual basis against existing vacancy at the relevant point of time under Rural Water Supply & Sanitation Organization vide Notification dated 12.04.2012 (Annexure-3). Impugning the advertisement No.3 of 2015-16 dated 17.04.2015 published by the Odisha Public Service Commissioner vide Annexure-9, the Petitioner has approached the Odisha Administrative Tribunal way back in 2015. The Odisha Administrative Tribunal vide order dated 14.05.2015 issued notice on admission and passed the following interim order:-

“xx xx xx xx

So far as prayer for interim order is concerned, we are not inclined to stay the recruitment process as at Annexure-9 as the appointment of the applicant on contractual basis is no way affected.

Pendency of the O.A. is not a bar for consideration of the representation of the applicant at Annexure-12 for regularization of his services.”

The said interim order was extended from time to time.

4. Counter reply has come to be filed on 27.10.2016 before the Odisha Administrative Tribunal, wherein paragraphs-3, 4 & 5 are as follows:

“xx xx xx xx

That, it is humbly submitted that in the High Level Committee Meeting held on 29.12.2008, it was decided that since the appointment through OPSC takes a lot of time, the unemployed SC/ST Graduate Engineers may be given contractual engagement against 176 backlog vacancies by each Appointing Department till appointment is made through OPSC on regular basis.

That, it is humbly submitted that in pursuance of decision of the High Level Committee and on receipt of requisition, Department of Water Resources as Nodal Department sponsored the applicant to H & UD Department and, in turn, the services of the applicant were placed at the disposal of Rural Development Department by H & UD Department. The applicant has been engaged by the Rural Development Department on contractual basis. His engagement is an ad-hoc arrangement with some terms & conditions having no claim for regular scale of pay and other allowances.

That, it is humbly submitted that after restructuring of the cadre of Odisha Engineering Service, recruitment to the base level posts at the level of Asst. Executive Engineer is being governed by the Odisha Engineering Service (Methods of Recruitment & Conditions of Service) Rules, 2012 which came into force w.e.f. 03.01.2013. Decree Engineers can only be recruited through examination conducted by OPSC. Hence, any appointment other than the aforesaid rules is illegal.”

5. Heard Mr. C.S. Panda, learned counsel for the Petitioner and Mr. Manoj Kumar Khuntia, learned Additional Government Advocate for the Opposite Parties-State.

6. During course of hearing, Mr. Panda, learned counsel for the Petitioner submits that the representation of the Petitioner dated 15.12.2014 vide Anneuxre-12 has not yet been disposed of even though the Odisha Administrative Tribunal vide order dated 14.05.2015 directed for consideration of the same for regularization of the service of the Petitioner during pendency of the Original Application before it.

7. Be that as it may, without entering into the merits of the contention made by both the sides, it is directed that the Petitioner shall approach the Opposite Party No.1-Principal Secretary, Water Resources Department, Government of Odisha, Bhubaneswar and produce the certified copy of this order along with a comprehensive representation stating the current position and the earlier representation as enclosed to the writ petition vide Annexure-12 within a period of two weeks hence. The Opposite Party No.1 shall consider the same by affording an opportunity of hearing to the Petitioner. It is further directed that the said Opposite Party No.1 shall endeavour to dispose of the representation after hearing the Petitioner within a period of four months from the date of appearance of the Petitioner before him and communicate the order to the Petitioner.

8. With the aforesaid observation and direction, this writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

(M.S. Raman)
Judge

Jyostna