

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) Nos.681, 682 & 1041 of 2016

WPC(OAC) No.681 of 2016

Umakant Sahu

...

Petitioner

-versus-

State of Odisha & Others ...

Opposite Parties

WPC(OAC) No.682 of 2016

Kanha Prasad Mishra

...

Petitioner

-versus-

State of Odisha & Others ...

Opposite Parties

-AND-

WPC(OAC) No.1041 of 2016

Jayanta Kumar Behera ...

Petitioner

-versus-

State of Odisha & Others ...

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

12.08.2022

Order No

02.

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

2. Heard Mr. B.K.Mohanty, learned counsel for the Petitioners and Mr. Y.S.P.Babu, learned Addl. Government Advocate for the State.

3. Since common question is involved in these writ petitions, all are heard analogously and disposed of by this common order.

4. All these Writ Petitions have been filed with the following prayer:-

“Admit the Original Application.

After hearing the counsels for the parties allow the original application and direct the Respondents more particularly Respondent No.2 to execute the agreement in favour of the applicant with a further direction to the respondents to regularize his service as per resolution under Annexure-3 within such period as deemed just and proper by this Hon’ble Tribunal

And / Or

Pass such other order / orders as may be deemed just and proper in the facts and circumstances of the case”.

5. It is submitted that the petitioners were initially engaged as Contractual Pharmacist vide order dated 29.12.2007 of the Director of Prisons and Correctional Services, Orissa, Bhubaneswar.

6. It is submitted that on such engagement on contractual basis, the petitioner was allowed to continue with renewal of agreement. But it is submitted that when no further agreement was executed in the year 2016, renewal the agreement the Petitioners approached this Court with the aforesaid prayer. This Court while issuing notice of the matter on 19.02.2016 passed an interim order to the following effect:-

“Till then the service of the applicant should not be substituted by any other contractual employee, if there is need for engagement of any such contractual Pharmacist”.

6. It is submitted that by virtue of the said interim order the Petitioners are continuing as on date in the same capacity. It is submitted that in view of their continuance as contractual Pharmacist w.e.f. 29.12.2007 to till date, they have accrued a right of absorption as against the said post.

7. It is submitted that the claim of the Petitioners for their absorption also comes within the purview of the resolution issued by the G.A. Department on 17.09.2013 and 16.01.2014. It is also submitted that the claim of the petitioner for their absorption is also covered by the decision of this Court in the case of (***Patitapaban Dutta Dash and Others vs. State of Odisha & Others***) in W.P.(C) No.19951 of 2020.

8. Mr. Mohanty further submitted that similarly situated contractual Pharmacists have been regularized in the meantime, save and except the present three petitioners.

9. Accordingly, it is prayed that necessary direction be issued to the opposite parties to absorb the petitioners in the regular establishment.

10. Mr. Babu learned Addl. Government Advocate on the other hand made his submission basing on the counter filed by the Opposite Party Nos.1 and 2.

11. It is submitted that even though the petitioners were engaged as a contractual Pharmacists but they have not

been appointed by facing due selection process and it is also submitted that after 2015 no renewal of their engagement was made and they are continuing by virtue of the interim order passed by this Court on 19.02.2016.

12. Heard learned counsel for the Parties.

13. This Court after going through the materials available on record finds that the petitioners are continuing as contractual Pharmacist w.e.f. 29.12.2007 and by the time their contractual engagement was not renewed in the year 2016, they had acquired the right of absorption in view of the resolution issued by the G.A. Department on 17.09.2013 as well as 6.1.2014 as by that date they have completed six years of continuous service as contractual Pharmacist. Not only that the claim of the petitioners for their absorption is also covered by the decision of this Court rendered in the case of (**Patitapaban Dutta Dash and Others vs. State of Odisha & Others**).

14. Therefore, this Court while disposing the Writ Petitions directs the Opposite Party No.2 to take a decision on the claim of the petitioners for their absorption in the regular establishment taking into account the guidelines issued by the G.A. Department on 17.09.2013 and 16.01.2014 as well the decision of this Court in the aforesaid case. The said Opposite Party No.2 shall also take into consideration the submission made by the learned counsel for the Petitioner that similarly situated contractual Pharmacists have been absorbed in the regular establishment, save and except the present three petitioners. This Court accordingly directs the said Opposite Party No.2 to take a lawful decision within a period of three months from the date of receipt of this order

and communicate the result thereof to the petitioners individually. Till such a decision is taken, the interim order passed by this Court on 19.02.2016 shall continue.

15. The Writ Petitions are accordingly disposed of.

16. The photocopy of the order be placed on the connected matters.

(Biraja Prasanna Satapathy)
Judge

Subrat

