

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No. 2444 of 2016

Pantala Jagannath Rao

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
03.08.2022

Order No

01.

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

2. Heard Mr. P.K. Mishra, learned counsel for the petitioner as well as learned Additional Government Advocate for the State.

3. The present writ application has been filed by the Petitioner with the following prayer:

“In view of the facts stated above in Para-6, the applicant prays for the following relief(s):-

- i) To quash the proceeding dtd.15.05.2015 in so far as it relates to rejection of applicant's prayer for regularization of service.*
- ii) To direct the respondents more particularly Respondent No. 1 to regularize the service of the Applicant as against the post of Peon w.e.f. his initial date of joining and to disburse all consequential service benefits including the arrear to the applicant within a reasonable time stipulated by this Hon'ble Tribunal.*
- iii) And pass such other order/orders as may be deemed fit and proper for the interest of justice.”*

4. It is submitted by the learned counsel for the Petitioner that the present Petitioner along with several other persons

were working in the Office of the President, District Consumer Redressal Forum, Gajapati. It is further submitted by the learned counsel for the Petitioner that the Petitioner was working as Peon in the District Consumer Forum, Gajapati since the year 1996. It is further submitted by the learned counsel for the Petitioner that similarly situated two other persons namely, Sitaram Bhoi and Debaraj Sahoo approached the erstwhile Orissa Administrative Tribunal for regularization of their service. In reply to the Original application the State Government took a stand that the said two persons Sitaram Bhoi and Debaraj Sahoo have not been appointed duly by following the proper recruitment procedure. However, after considering the facts of both the cases in the Tribunal was allowed and the same was confirmed by this Court in writ application. Thereafter the case of Sitaram Bhoi was carried to the Hon'ble Supreme Court of India at the instance of the State Government. It appears from the SLP preferred by the State bearing SLP No.11734 of 2021 has been dismissed by order dated 30.03.2021. Therefore, the order passed by the learned Tribunal in the case of Sitaram Bhoi has attained its finality. Learned Additional Government Advocate submits that the order passed in the case of Sitaram Bhoi has given effect to by the State Government.

5. So far as the present petitioner is concerned, it is submitted by the learned counsel for the Petitioner that the authorities have again taken a stand that the Petitioner has not been duly selected by following a proper recruitment procedure. He further submits that the very same ground which was raised in the earlier two petitions have been negative by the

Tribunal as well as by this Court and eventually confirmed by the Hon'ble Supreme Court of India. Therefore, he submits that this is no more res integra and not to grant benefit to the Petitioner as has been given to Sitaram Bhoi and Debaraj Sahoo. He further submits that the order in the case of Sitaram Bhoi has already been implemented by the Finance Department, Government of Odisha vide Memo No.16104 dated 29.09.2021 and the said Sitaram Bhoi has been regularized in service by the President, DCRF, Subarnapur and he has been extended with all the financial benefits.

6. Learned counsel for the Petitioner draws the attention of this Court to the order passed by the Division Bench of this Court in W.P.(C) No.15996 of 2019 in the case of State of Odisha & another-v-Sitaram Bhoi. By order dated 30.03.2021 this Court while upholding the order passed by the Tribunal has also directed that the Petitioner is entitled to the service benefits for the entire period. Further it is directed that regularisation be made immediately from the date of production of certified copy of this order and the arrear dues be released as early as possible preferably within a period of three months from the date of communication of the order.

7. Learned Additional Government Advocate opposes the prayer of the Petitioner and prays for dismissal of the writ petition. However, he does not dispute the facts placed on record by the learned counsel for the Petitioner. It is further submitted by the learned counsel for the State that the Petitioner has not been recruited by a valid recruitment procedure and he has not faced the interview. Therefore, the

Petitioner is not entitled to get the benefit as has been given to the two persons named hereinabove.

8. Considering the submissions made by the respective parties and upon perusal of the documents placed on record and after considering the facts and circumstances of the present case, this Court is of the considered view that the present Petitioner stands on a similar footing with Sitaram Bhoi and Debaraj Sahoo. Therefore, the Petitioner is entitled to the benefit as has been extended to other two persons and that the ratio decided in the case of Sitaram Bhoi and Debaraj Sahoo is also applicable to the facts of the present case. In such view of the matter, the present writ application is allowed and the Petitioner be extended with the similar benefit as has been given to Sitaram Bhoi pursuant to the order of the Tribunal confirmed by this Court as well as Hon'ble Supreme Court. The order passed by the Commissioner –cum- Secretary to Government, Food Supply & Consumer Welfare Department, Opposite party No.1 dated 15.05.2015 under Annexure-8 is hereby quashed.

9. Let the Petitioner approach with a certified copy of this order. In such eventuality the Petitioner shall be extended the benefit as has been extended to Sitaram Bhoi within a period of three months from the date of production of certified copy of this order.

10. With the aforesaid observation, the writ application stands disposed of.

11. Issue urgent certified copy of this order as per Rules.

(Biraja Prasanna Satapathy)

Judge

Sneha

