

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.28511 of 2022

Chittadipta Jena and others

Petitioners

....
Mr. MD. Golam Madani, Advocate

-versus-

***Chairman, Regulated Market
Committee, Jagatsinghpur and
another***

.... ***Opposite Parties***

**CORAM:
JUSTICE A.K.MOHAPATRA**

**ORDER
31.10.2022**

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioners and the learned Additional Government Advocate.
3. The present writ application has been filed with the following prayer:

“In view of the above it is humbly and most respectfully prayed that this Hon’ble Court may kind enough to direct the Chairman, Regulated Market Committee, Jagatsinghpur to regularize the petitioners in appropriate posts considering the services rendered to the Regulated Market Committee, Jagatsinghpur in exercise of the writ jurisdiction of this Hon’ble Court for the interest of justice.

And pass any other order(s) directions(s) as this Hon’ble Court may deem fit and proper for the interest of justice”

4. It is submitted by the learned counsel for the Petitioners that as per requirement, the Regulated Market Committee, Jagatsinghpur had engaged/appointed and deployed the present petitioner for necessary works of the Regulated Market Committee in exercise of power under OAPM Act, 1956. The petitioners are working under the Chairman, Regulated Market Committee, Jagatsinghpur-opposite party no.1 for a long span of time and dedicated their sincere service with a hope and trust to be regularized in future. The petitioners are deployed by the Regulated Market Committee in the field works for search, seizure and collection of market fees from the traders those are trading / purchasing the agriculture produces within the jurisdiction of the Regulated Market Committee.

5. Chittadipta Jena-Petitioner no.1, initially joined as part time worker of Regulated Market Committee, Jagatsinghpur on 28.02.2009, he worked as such till 19.09.2017. On 20.09.2017 treated as DLR employee by the Regulated Market Committee, Jagatsinghpur. Suchitra Kumar Dalei-Petitioner no.2 joined on 28.03.2011 as part time till 19.09.2017. On 20.09.2017 treated as DLR employee by the Regulated Market Committee, Jagatsinghpur. Pankaj Kumar Swain-Petitioner no.3 joined in February, 2016. On 20.09.2017 treated as DLR employee by the Regulated Market Committee, Jagatsinghpur. Anjan Kumar Behera-Petitioner no.4 initially joined as part time worker of Regulated Market Committee on 28.02.2009, he worked as such till 19.09.2017. On 20.09.2017 treated as DLR employee by the Regulated Market Committee, Jagatsinghpur. Durga Cgaran Hati-Petitioner no.5 initially joined as part time worker of Regulated Market Committee, Jagatsinghpur on 28.02.2009. He had worked as such till 19.09.2017. On 20.09.2017

treated as DLR employee by the Regulated Market Committee, Jagatsinghpur. Nihar Ranjan Sasmal-Petitioner no.6 initially joined as part time worker of Regulated Market Committee, Jagatsinghpur on 28.03.2011. He had worked as such till 20.09.2017. On 20.09.2017 treated as DLR employee by the Regulated Market Committee, Jagatsinghpur. Sudhir Kumar Maharana-Petitioner no.7 joined on 20.09.2009, treated as DLR employee by the Regulated Market Committee, Jagatsinghpur. It is submitted by learned counsel for the petitioners that despite the petitioners working several years, services of the petitioners have not been regularized. It is further contended that the Petitioners were working against sanctioned post, therefore, there is no obstacle for regularization of service of the Petitioners as the post against which they are temporarily engaged is a sanctioned post. Learned counsel for the Petitioners relies upon the judgment of the Hon'ble Supreme Court in the case of **State of Karnataka-v.-Umadevi, 2006(4) SCC 1** wherein at paragraph 53 the Apex Court has held that the State Government and their instrumentalities should take steps to regularize as a one-time measure the services of such irregularly appointed who have worked for ten years or more in duly sanctioned posts. Further, it is contended by the learned counsel for the Petitioners that similar view has been taken by the Hon'ble Supreme Court in the case of **State of Karnataka and others v. M.L.Keshari and others, 2010(II) OLR (SC) 982** wherein in paragraph-7 the apex Court has held as follows:

“7. It is evident from the above that there is an exception to the general Order No. 01. principles against ‘regularization’ enunciated in Umadevi if the following conditions are fulfilled: (i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or

tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years. (ii) The appointment of such employee should not be illegal even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive-selection, such appointments are considered to be irregular.”

5. Learned Additional Government Advocate on the other hand submits that the Petitioners cannot claim regularization as a matter of right. Further, it is submitted that some of the employees who have been regularized have undergone scrutiny. Therefore, the Petitioners shall also be subjected to scrutiny. Thereafter the question of regularization can be considered. However, he does not dispute that the Petitioners have been engaged in the work as has been claimed by the Petitioners. Accordingly, learned Additional Government Advocate prays for dismissal of the writ application.

6. Having heard learned counsel for the parties and further considering the law laid down by the Hon'ble Supreme Court in a catena of judgments including the judgments in **Uma Devi case** (supra) and **M.L.Keshari** (supra) as well as **Amarkanti Rai v. State of Bihar and others**, (2015) 8 SCC 265, this Court deems it proper to direct the Opposite Party No.1 to consider the case of regularization of the Petitioners which is stated to be pending before the Chairman, Regulated Market Committee, Jagatsinghpur in the shape of representations filed by the Petitioners which have been

annexed to the writ application as Annexure-2 series. Accordingly, the Opposite Party No.1 is directed to consider the representations of the Petitioners in the light of the law and judgment discussed herein above and pass a reasoned and speaking order within eight weeks from the date of production of certified copy of this order. The decision so taken shall be communicated to the Petitioners within two weeks thereafter.

7. With the aforesaid observation/direction the writ application stands disposed of.

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

(A.K. Mohapatra)
Judge

Jagabandhu

