

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.4560 of 2016

Udayanath Rout

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

06.12.2022

Order No

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

2. Heard Mr. B.S. Tripathy, learned counsel for the Petitioner and Mr. D.K. Mohanty, learned Addl. Standing Counsel appearing for the Opp. Parties.

3. The present writ petition has been filed with the following prayer:-

“(a) An appropriate order be passed directing the Respondents to consider the case of the applicant for his regularization in the post of Ambulance Driver taking into account the entire period of contractual service of more than 11 years rendered by the applicant; and

(b) To pass such further order/orders as may be deemed fit and proper in the facts and circumstances of the case and allow the OA with costs.”

4. It is contended that the Petitioner was initially appointed as a driver on contractual basis vide order dtd.30.01.2001 under Annexure-1 and while so continuing he was retrenched from his

service. Subsequently, vide order dtd.20.08.2009 he was again appointed as a driver on contractual basis. It is also contended that in terms of the order at Annexure-2 the Petitioner is continuing as a contractual driver as on date in the establishment of C.D.M.O., Dhenkanal-O.P. No. 3.

5. Learned counsel for the Petitioner contended that O.P. No. 3 vide his letter dtd.01.08.2014 under Annexure-6 though requested the O.P. No. 2 to issue necessary instruction for regularization of the services of the Petitioner, but no decision has yet been taken by the said Opp. Party. It is further contended that in view of the decisions of the Hon'ble Apex Court rendered in the case of ***Secretary, State of Karnataka vs. Uma Devi (3), (2006) 4 SCC-1, State of Karnataka vs. M.L. Keshari, (2010) 9 SCC 247, Nihal Singh & Others vs. State of Punjab & Others, 2013 (14) SCC 65 and Amarkant Rai vs. State of Bihar & Others, 2015 (8) SCC 265*** the Petitioner has accrued right of regularization and because of the pendency of the matter before O.P. No. 2 the Petitioner is continuing as a contractual driver as on date.

6. Even though notice of the writ petition has been issued since 2016, but no counter affidavit has been filed by the State-Opp. Parties.

7. Having heard learned counsel for the Parties and taking into account the decisions of the Hon'ble Apex Court as cited (supra) and the long continuance of the Petitioner as a contractual driver, this Court while directing O.P. No. 2 to take a decision on the communication made by the O.P. No. 3 under Annexure-6 within a period of two (2) months from the date of receipt of this order, also observe that while taking such a decision, the O.P. No. 2 shall take

into consideration and follow the direction contained in the decisions of the Hon'ble Apex Court as cited (supra). The decision so taken by the O.P. No. 2 shall be communicated to the Petitioner within the aforesaid time period.

8. The writ petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha

