

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C. (OAC) No.1121 of 2015

Sanatan Barik

....

Petitioner

Mr. Swapnil Roy, Proxy counsel on
behalf of Mr. A.K. Sahoo, Advocate

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. L. Samantaray, AGA

CORAM:
JUSTICE M.S. RAMAN

ORDER

21.06.2022

Order No.

01.

1. This matter is taken up through virtual/physical mode.
2. The Original Application No. 1121 of 2015 was filed before the State Administrative Tribunal, Bhubaneswar. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OAC) No. 1121 of 2015.
3. Mr. Swapnil Roy, Proxy counsel on behalf of Mr. A.K. Sahoo, counsel for the Petitioner submits that the Petitioner, NMR under Executive Engineer, Mayurbhanj Irrigation Division, Baripada, has approached this Court for a direction to regularize his service. He further pointed out that the Petitioner was engaged on 31.12.1974 and disengaged in the year 1979 and thereafter, an award was passed by the Labour Court directing to re-engage the applicant as NMR vide letter dated 30.11.2009. Therefore, the Petitioner claims for regularization of his service taking into consideration the service from 1974 to 1979. He also submits that in an identical case similar benefit has been given to the NMR employees engaged prior to 12th April, 1993 by co-ordinate Bench of this Court.
4. Counsel for the Petitioner cited the case of ***Trinath Jena Vrs. State of Odisha & Others*** in WPC (OAC) No. 1823 of 2015 disposed of vide judgment dated 21st June, 2021 reveals

that this Court under identical situation has observed as follows:-

“Keeping in view the observation made hereinabove and the development bringing over the junior NMR employees to the work-charged establishment and for the Petitioner’s reinstatement into service, this Court finds, only remedy available with the Water Resources Department is to accept the proposal of the department and place the Petitioner in the work-charged establishment just above his juniors, who have already been brought to the work-charged establishment. In such view of the matter, this Court finds the order vide Annexure-9 is not sustainable in the eye of law and accordingly, interfering in the order vide Annexure-9 this Court sets aside the same and directs the Water Resources Department, Government of Odisha to treat the Petitioner to have been brought to work-charged establishment from the date his juniors have been posted in the work-charged establishment. As a consequence, Petitioner also deserves to be entitled all financial benefit accrued in the meantime along with interest the rate 6% per annum all through and the whole arrear which shall be worked-out and released in favour of the Petitioner within a period two months hence.”

7. The said judgment has also been followed in the case of **Balabhadra Behera Vrs. State of Odisha and Others** in WPC (OAC) No. 1002 of 2015, vide order dated 23rd June, 2021 and placing reliance on the same, he submitted that the Petitioner is entitled for regularization. He further submitted that the Petitioner’s name was recommended for bringing over to the work charged establishment vide Annexure-6 to the writ petition.

8. Mr. L. Samantary, learned Addl. Govt. Advocate submitted that the judgment and order cited by Mr. Swapnil roy, learned counsel for the Petitioner is distinguishable on fact.

9. Without expressing any opinion on the merit of the matter, since the matter is pending since 2014, it is deemed proper to direct the Opposite Party No. 1 to consider the proposal as reflected at Annexure-6 keeping in view the decision rendered by this Hon’ble Court. For the purpose, the Petitioner

shall approach the Opposite Party No. 1 and produce the certified copy of this order along with the copy of the representation dated 7.3.2012 (Annexure-5) and proposal at Annexure-6 within a period of four weeks hence. The Opposite Party No. 1 shall do well to dispose of the representation after receipt of the aforesaid documents and take a decision within a period of three months from receipt of said documents. Reasoned order be communicated to the Petitioner.

With the aforesaid observation and direction, the writ application is disposed of.

Issue urgent certified copy as per rules.

Aks

