

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C. (OAC) No.1226 of 2014

Uttama Kumar Pradhan

.... ***Petitioner***
Mr. S. Mallik, Advocate

-versus-

State of Orissa and Others

.... ***Opposite Parties***
Mr. Anupam, Rath,
Additional Standing Counsel

CORAM:
JUSTICE M.S. RAMAN

ORDER

25.03.2022

Order No.

- 01.
1. This matter is taken up through virtual/physical mode.
 2. The Original Application No.1226 (C) of 2014 was filed before the Orissa Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court, which is renumbered as WPC (OAC) No. 1226 of 2014.
 3. Learned counsel for the Petitioner submits that though the Petitioner worked as job contract Class-IV (Group-D) employee, he has not been extended the retiral benefit from 1st July, 2005. He also submits that the Petitioner has joined as job contract employee on 1st June, 1975 which fact is appearing in the gradation list vide Annexure-1 (Serial No. 27). Being superannuated the Petitioner retired on 30th June, 2005. Annexure-2 to the Petition reveals that by virtue of direction of the Odisha Administrative Tribunal in OA No. 1629 (C) of 2003, the Petitioner has been continuing as such and his date of birth being 1st July, 1945, he was allowed to retire on 30th June, 2005.
 5. Mr. S. Mallik, leaned counsel for the Petitioner relied on Clause-(iii) of Government of Odisha Revenue Department

letter No.VIE-5/04 Pt-17843 dated 11th May, 2005 and urged that the Competent Authority has not adhered to the term of said clause. It is the fruitful to extract the following from the said letter:-

“I am directed to invite to the subject mentioned above and to say that action is to be initiated as per the decision taken in the meeting held on 16th March, 2005 under the chairmanship of the Principal Secretary, Revenue Department and the subsequent orders of the Finance Department on 23rd March, 2005, communicated vide their letter No. 21268 dated 30.4.05 in the following manner.

i) At the first instance, 75% of the base level vacant posts as on 1st April, 2004 is to be abolished.

ii) Regularisation of the services of the Job Contract employees should be subject to the Finance Department Resolution No. 22764 dated 15.5.1997 (copy enclosed).

iii) The total number of J.C. employees to be regularized in a financial year should be worked out carefully. While taking up regularization of J.C. employees in a year seniority should be the basis, subject to other criteria such as requisite qualification, experience etc. If, however, any J. C. employee is due to retire within the said financial year, his services may be regularized one month before his date of retirement, so that he gets pension as per his entitlements. On his retirement the resultant vacancy should be filled up as per the seniority.

iv) A J.C. employee brought over to regular establishment through regularization will retire on superannuation as applicable to the State Government employees borne under regular establishment.

2. Appropriate steps are being taken to send the detailed list of 75% vacant base level posts abolished in each district. The J.C. employees are to be absorbed in the remaining base level vacant posts in the prescribed manner.”

6. Mr. Malik, further relied on Annexure-4 series, wherein he has enclosed orders of the Odisha Administrative Tribunal, wherein similarly situated persons, who are engaged as job contract employees got the benefit as prayed for in the petition.

7. Mr. Rath, learned Additional Standing Counsel appearing for the Opposite Parties referring to the counter affidavit filed on behalf of the Opposite Parties No. 1 to 5 by Additional Sub-Collector, Kandhmal submitted that there was a delay in approaching the Odisha Administrative Tribunal

which is hit by provisions of Administrative Tribunal Act, 1985. As it is apparent from the counter affidavit, the Opposite Party No.4 stated that the Collector Kandhamal (Opposite Party No.5) is a Competent Authority to take a decision in the matter.

8. Without expressing any opinion in this regard, this Court feels it proper to dispose of the writ petition by granting an opportunity to the Petitioner to file a representation before the Opposite Party No. 5 bringing to his notice the letter bearing No.VIE-5/04 Pt-17843 dated 11th May, 2005 issued by the Government of Odisha Revenue Department, Odisha, Bhubaneswar and the copies of the orders of the Odisha Administrative Tribunal. It is open for the Opposite Party No.5-Collector, Kandhamal or any other competent authority to decide at the earliest, preferable, within a period of four months from date of production of certified copy of this order and other documents as referred to above by the Petitioner. It is clarified that the competent authority shall independently apply his mind and decide the matter as this Court has not expressed any opinion.

7. In view of the above, the writ petition is disposed of.
Issue urgent certified copy as per rules.

(M.S. Raman)
Judge

Laxmikant