

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.931 of 2014

Biti Dehury

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
14.11.2022**

Order No

- 03.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. K.C. Rajguru Mohapatra, learned counsel for the Petitioner and Mr. D.K. Mohanty, learned ASC appearing for the Opp. Parties.
3. Even though the present writ Petition was filed by the Petitioner challenging the order at Annexure-7, whereby the Petitioner was given temporary status, but learned counsel for the Petitioner submitted that he does not want to press that prayer.
4. It is submitted that the Petitioner was engaged as a NMR on 01.11.1986 and the said fact is reflected in the counter affidavit filed by the Opp. Party No. 4 vide Annexure-B/10. But while giving temporary status in favour of the Petitioner vide Order at Annexure-E/23, the initial date of engagement of the Petitioner was wrongly shown as 01.01.1992.
5. Mr. Mohapatra submitted that because of such wrong recording committed by the O.P. No. 4 in taking the date of initial engagement of the Petitioner as 01.01.1992 in place of 01.11.1986,

the Petitioner was deprived from being regularly absorbed in his service. Not only that because of such wrong committed by the Opp. Party No. 4 persons engaged subsequent to the Petitioner on NMR basis though were absorbed in the regular establishment, but the Petitioner was deprived of such benefit and he retired while working as a temporary employee on 31.03.2022. Accordingly, it is prayed that necessary direction be issued to the Opp. Party No. 4 to take a decision on the claim of the Petitioner for his absorption in the regular establishment and thereby entitling him to get the benefit of pension and other pensionary benefits as provided under OCS (Pension) Rules, 1992.

6. Mr. Mohanty, learned ASC on the other hand submitted that pursuant to the earlier order passed by the learned Tribunal in O.A. No. 1246(C) of 1994 and C.P. No. 311(C) of 2001, the Petitioner vide order at Annexure-E/23 was given the benefit of temporary status in terms of Finance Department Resolution dtd.04.09.2012. It is also submitted that during such continuance of the Petitioner with temporary status, he retired on superannuation on 31.03.2022. Therefore, the claim of the Petitioner for his absorption in the regular establishment does not arise.

8. Heard learned counsel for the Parties. Perused the materials available on record. This Court after going through the same, finds that in Annexure-B/10 even though the date of initial engagement of the Petitioner is indicated as on 01.11.1986, but in Annexure-E/23 while conforming the temporary status in favour of the Petitioner, the date of the initial engagement was shown as 01.01.1992. Since it is contended that because of such discrepancy with regard to his date of entry in service as NMR the Petitioner was deprived from being regularly absorbed though persons

engaged subsequent to him were absorbed in the regular establishment, this Court while disposing the writ Petition, permits the Petitioner to make an appropriate application before the Opp. Party No. 2 seeking his absorption in the regular establishment.

9. It is observed that if any such application is made substantiating the stand within a period of three (3) weeks from today, Opp. Party No. 2 shall take a lawful decision on the same within a period of three (3) months from the date of receipt of the representation. It is however, observed that while considering the claim of the Petitioner, if it is found that the Petitioner's initial date of joining is in fact 01.11.1986 and persons engaged by that date have been regularized in service, necessary appropriate order be passed within the aforesaid time period.

10. The writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha