

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC(OAC) No.1362 of 2014

Rama Chandra Parida

.... ***Petitioner(s)***
Mr. D. Pattanayak,
Advocate

-versus-

State of Orissa

.... ***Opposite Party(s)***
Mr. U.K. Sahoo,
Addl. Standing Counsel

CORAM:
JUSTICE BISWANATH RATH

ORDER
07.07.2022

Order No.

01. **1.** This application involves the following relief:-

“Relief Sought(s):-

- (i) To quash the Office order No.365/2 F (NG)-16/2006 dt.10.4.2013 passed by the Principal Chief Conservator of Forest Odisha vide Annexure-14.
- (ii) To direct the Respondents to include the name of the applicant in the seniority list taking into consideration the date of joining in service as 13.12.1970.
- (iii) To promote the applicant to the post of Deputy Renger as and when his due to be promoted.
- (iv) To grant service and monitary benefits.
- (v) To pass such other order as deemed fit and proper.
- (vi) To grant interest by promoting the applicant to the post of Deputy Ranger.
- (vii) To allow the Original Application.

2. Taking this Court to the document at Annexure-2 the Petitioner claims to have been appointed temporarily as a Forester on 07.12.1970.

Even though the Petitioner was temporarily continuing but a service book involving the Petitioner was opened on 10.04.1971. While the Petitioner continuing as such taking into account his period of continuance and his performance the District Forest Officer, Keonjhar Division vide Annexure-4 passed order promoting the Petitioner as a Forester under the regular establishment from the date of his joining with scale of pay prescribed therein. Joining of the Petitioner in the regular establishment initially on 7.12.1970 became the foundation in promoting the Petitioner to the post of Forester vide Annexure-4. The Petitioner claims for considering the temporary service period for the purpose of consequential service benefit as well as retiral dues. In the process the application was filed and as appears vide Annexure-14 the claim of the Petitioner was rejected resulting filing of this application.

3. Referring to a judgment of the Hon'ble apex Court in the case of ***The Direct Recruit Class-II, Engineering Officers' Association and Ors. Vs. State of Maharashtra and Ors.*** as reported in AIR 1990 SC 1607 and reading through the direction part therein learned counsel for the Petitioner claims for benefit of the said judgment to his case. By producing a copy of the order of the Tribunal involving similarly situated case in O.A. No.98 of 1986, it is claimed that not only the Tribunal allowed such relief in respect of some other employees but through Annexures-8 & 9 order of the Tribunal have also been complied with by the Department concerned.

4. To the contrary in an attempt to oppose the prayer of the Petitioner learned State Counsel referring to the averments made in paragraph no.3 of the counter affidavit contended that for there is temporary engagement, the position of the Petitioner from 1970 till his promotion in the year 1973, cannot be treated as a regular role in the

Establishment. Thus a prayer is made for rejecting the application involved.

5. Considering the rival contentions of the parties this Court finds, there is no dispute that the Petitioner's initial engagement was made pursuant to the order vide Annexure-2 dated 7.12.1970. This Court further looking to the direction for promotion of the Petitioner as a Forester under regular establishment finds, working of the Petitioner vide Annexure-2 became the foundation for his promotion. In similar situation this Court again finds, one Guru Charan Nanda moved the Tribunal by filing O.A. No.98 of 1986. It appears, the Tribunal finally allowing the said O.A. directed for considering the Ad.hoc appointment period for the purpose of seniority. Material through Annexures-8 & 9 discloses that the order of the Tribunal in similar circumstance has also been worked-out.

In the circumstance this Court finds, there cannot be a different view involving the Petitioner. This Court further also finds, even though the Petitioner was temporarily continuing but a service book involving the Petitioner was already opened on 10.04.1971. There is direct application of the order in O.A. No.98 of 1986 to the case at hand. Further for the observation of this Court that initial promotion of the Petitioner was made through his continuance in the Establishment since 1970, this Court otherwise also finds a case in favour of the Petitioner. As a consequence this Court interfering in the order vide Annexure-14, sets aside the same and directs the competent authority to take into account the temporary period of continuance of the Petitioner vide Annexure-2 for the purpose of seniority and act accordingly.

6. The entire exercise shall be completed within a period of three months from the date of communication of an authenticated copy of this order by the Petitioner.

5. The WPC(OA) stands disposed of with the above direction.

(Biswanath Rath)
Judge

Ayaskanta Jena

