

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No.1223 of 2016

K.Bhubaneswari

.... Petitioner

-versus-

State of Odisha & Ors.

.... Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
02.08.2022**

Order No

- 01.** 1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the Petitioner and learned counsel for the Opposite Parties.
3. The Petitioner has filed the present Writ Petition with the following prayer:-
- “(i) Direct the Respondents to regularize the services of the applicant with all service and financial benefits from the date of her initial appointment in Utkal Sangeet Mahavidyalaya in the interest of justice.
- (ii) Pass any other order / orders as deem fit and proper in the interest of justice”.
4. It is submitted that the Petitioner was initially appointed vide order under Annexure-1 in the post of Accompanist in Karnatic Violin.
5. It is submitted that the Petitioner also possesses the requisite qualification to hold that post and she was

appointed vide order under Annexure-1 with regular scale of pay.

6. It is further submitted that while continuing as such, the Petitioner was disengaged vide order under Annexure-4 and subsequently she was re-engaged vide order dated 31.10.1997 under Annexure-5.

7. It is submitted that save and except the break period of service, the Petitioner is continuing on Ad hoc basis in the post in question till date.

8. It is submitted that in spite of her long continuance, the opposite parties are not taking any steps to absorb her in the regular vacancies.

9. Mr. Mohapatra, further submitted that the claim of the petitioner for her absorption in the regular establishment is covered by the decision of the Hon'ble Apex Court in the case of **Secretary, State of Karnataka vs. Uma Devi (3)**, (2006) 4 SCC-1, **State of Karnatak 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.

10. It is also submitted that in a similar case in the case of **Rajendra Kumar Nayak vs. Orissa Mining Corporation Ltd. & Others** reported in **2017(II) ILR-CUT-912**, this Court has directed the authorities to regularize the services of the petitioner and to grant all service and financial benefit as admissible to the post.

11. Mr. Mohapatra, accordingly submitted that necessary direction be issued to the opposite parties to absorb her in the regular establishment in view of long continuance and the decision as cited (supra).

12. Mr. Mishra, learned State Counsel on the other hand made his submission basing on the stand taken in the counter affidavit, it is submitted that the petitioner while continuing in terms of the order under Annexure-1, she was dis-engaged and subsequently, has been re-engaged. Therefore, there is no continuity in her service and accordingly not entitled to get the relief.

13. Heard learned counsel for the Parties.

14. Perused the materials available on record. This Court after going through the same finds that the petitioner is continuing on Ad hoc basis since 17.8.1991 and except the break period i.e. 10.09.1997 to 31.10.1997, the petitioner is continuing all throughout. Therefore, as per the considered view of this Court, the claim of the petitioner for her absorption in the regular establishment is covered by the decision relied on by the learned counsel for the Petitioner.

15. Therefore, this Court while disposing the writ petition, directs the opposite parties to take effective steps and regularize the petitioner in her service. The entire exercise shall be completed within a period of three months from the date of receipt of this order. The petitioner is directed to produce the certified copy of this order before the opposite

party No.1 and opposite party No.1 is directed to act on the same.

16. With the aforesaid observations and directions, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

