

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3342 of 2014

In the matter of an application under Section 19 of the
Administrative Tribunal's Act, 1985.

.....

**Amarendra Kumar
Paramanik**

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

For Petitioner : M/s. Niranjan Panda and
N.M. Samal

For Opp. Parties : Standing Counsel
Mr. M.K. Balabantaray

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 12.04.2022 and Date of Order: 20.04.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. Niranjan Panda, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned counsel for the Opposite Parties.
3. The Petitioner has filed the present Writ Petition with the following prayer:-

“(i) Let this Original Application be admitted.

(ii) Notice may issue to the Respondents and considering the facts and grounds stated above may allow this Original Application with a direction to the Opposite Parties to regularize the service of the Applicant with full back wages and others service benefits.

(iii) And pass any other order/orders or direction/directions be issued so as to give complete relief to the applicant.”

4. It is submitted by Mr. Panda, learned counsel for the Petitioner that even though the Petitioner is continuing as DLR in the Rural Works Department since 1991-92 without any break in service, he is entitled for his absorption in the regular establishment. It is submitted by Mr. Panda, learned counsel for the Petitioner that even though the Petitioner was engaged through contractor, but vide letter dtd.28.10.1999 Assistant Engineer, Jaleswar Rural Works Sub-Division, Rajghat requested the Opp. Party No.4 to allow the Petitioner to continue as a regular DLR in any section of the Sub-Division.

5. In the said communication dtd.28.10.1999, the date of engagement of the Petitioner is shown as 01.08.1994. But it is submitted by Mr. Panda, learned counsel for the Petitioner that the Petitioner is continuing w.e.f. 1991-1992 and in view of his long continuance he is eligible for his absorption in the regular establishment in terms of the Finance Department Resolution issued on 15.05.1997 and the decision of the Hon'ble Apex Court reported in the case of **State of Karnatak v. Uma Devi (2006) 4 SCC 1**, **State of Karnatak v. M.L. Keshari** reported in **(2010) 9 SCC 247**, **Nihal Singh v. State of Punjab (2013) 14 SCC 65**, **Amarakanta Ray v. State of Bihar (2015) 8 SCC 265**.

6. Mr. Panda accordingly submitted that in view of such decision of the Hon'ble Apex Court as cited (supra) and the resolution of the Finance Department dtd.15.05.1997, the petitioner is eligible for his absorption in the regular establishment.

7. Mr. Balabantaray, learned Standing Counsel on the other hand submitted that since the Petitioner was engaged through a contractor,

though as a DLR, but he is not eligible for his absorption. It is also argued that unless and until the Petitioner is treated as an identified DLR, his claim for absorption cannot be considered.

8. Having heard learned counsel for Parties and taking into account the decision of the Hon'ble Apex Court as cited (supra), this Court is of the opinion that since the Petitioner is continuing as a DLR w.e.f.1991-1992, his claim for absorption in the regular establishment needs favourable consideration by the Opp. Parties. Accordingly, while disposing the writ Petition, I direct the Opp. Party No.1 to take a decision on such claim of the Petitioner within a period of 3 (three) months from the date of receipt of the order. It is needless to say that while taking such decision, Opp. Party No.1 shall follow the direction of the Hon'ble Apex Court in the reported decisions as cited (supra).

9. With the aforesaid observation and direction, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 20th of April, 2022/Sneha