

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 2611 of 2012

Soubhagya Swain

.....

Petitioner

Mr. S. Behera, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. S. Nayak, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

02.12.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Behera, learned counsel for the petitioner and Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State-Opposite Parties.

3. The petitioner has filed this writ petition claiming regularization of service and also pensionary benefits, as he has rendered more than 36 years of service in the organization.

4. Earlier, the petitioner had approached this Court by filing O.A. No. 2861 of 2009, which was disposed of directing the authority to consider his representation. The same having not been complied with, the petitioner filed C.P. No. 14 of 2011, which was disposed of vide order dated 09.05.2011. In compliance of the said order, the order impugned in Annexure-9 has been passed to the following effect:-

“Sri Soubhagya Swain, Khalasi was retired from Government service as on 30.11.2009 and the Chief Engineer, M.I. Odisha, Bhubaneswar submitted proposal for consideration of cases of retired/expired work charged of M.I. Wings to be brought over to wages establishment vide letter no.8156 dated 25.05.2011 to Government in Department of Water Resources for approval. The Government in Department of Water Resources has rejected the proposal vide Letter No.19608 dated 06.08.2011.”

5. It is contended that one Narusu Pradhan, a similar circumstanced person like the petitioner had filed O.A. No. 1189

(C) of 2006 praying for retrial benefits. The Tribunal allowed the retrial pensionary benefits in his favour vide order dated 11.06.2009, which was challenged by the State before this Court in W.P.(C) No. 5377 of 2010. This Court dismissed the writ petition on 19.12.2011 and confirmed the order passed by the Tribunal. Thereafter, against the order passed by this Court, the State has preferred SLP in Civil Appeal No. 22498 of 2012, which was also dismissed on 07.01.2013. Accordingly, the benefit was extended to him. It is further contended that another similarly circumstanced employee, namely, Pitambar Sahoo, approached the tribunal by filing O.A. No. 4189 (C) of 2013, which was disposed of vide order dated 18.04.2017 extending the benefit to him. The same was challenged by the State before this Court in W.P.(C) No. 24041 of 2017 and ultimately the same was dismissed vide order dated 20.12.2017. Thereafter, the same was challenged before the apex Court in SLP No. 30806 of 2018, which was also dismissed vide order dated 10.09.2018, by citing similar petition bearing SLP (C) No. 22952 of 2018 (State of Odisha v. Bijay Kumar Jena), which was already dismissed earlier by the apex Court. Thus, it is contended that the case of the petitioner may be considered in the light of the aforesaid orders.

6. Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State-Opposite Parties contended that since the order impugned under Annexure-9 has been passed without assigning any reason, the same should be quashed and the matter may be remitted back to the authority for reconsideration.

7. Having heard learned counsel for the parties and after going through the records, this Court finds that the order impugned under Annexure-9 has been passed without assigning any reason and more so when similarly situated employees have already been

extended with the benefit the petitioner should not have been denied such benefit. Accordingly, the impugned order under Annexure-9 is hereby quashed and the matter is remitted back to the Superintending Engineer, S.M.I. Circle, Berhampur to consider the case of the petitioner afresh in the light of the judgment passed by the Tribunal in the cases of **Narusu Pradhan** and **Pitambar Sahoo** (supra) and pass appropriate order in accordance with law as expeditiously as possible, preferably within a period of three months from the date of production of certified copy of this order.

8. The writ petition is accordingly disposed of.

Issue urgent certified copy as per rules.

Ashok



(DR. B.R. SARANGI)
JUDGE