

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C(OAC) No.3906 of 2012

Narayan Nahak

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

04.04.2022

Order No

3. 1. This matter is taken up through Hybrid Mode.

2. Heard Mr. B.K.Parida-2, learned counsel for the Petitioner and Mr. M.Balabantaray, learned counsel for the State-Opposite Parties.

3. This Writ Petition has been filed by the Petitioner with a prayer to direct the Opposite Parties to absorb the Petitioner in the regular establishment by quashing the Office Order No.242 dated 18.01.2011 passed under Annexure-3-Series.

4. It is submitted by Mr. Parida, learned counsel for the Petitioner that the Petitioner was engaged as a D.L.R in the establishment of Opposite Party No.3 w.e.f 01.09.1985 vide Annexure-1.

5. It is also the case of the Petitioner is that on such engagement as a D.L.R w.e.f. 01.09.1985, the Petitioner was allowed to continue as a D.L.R and as per the resolution issued by the Finance Department on 15.05.1997 vide Annexure-2, the Petitioner being an engagee prior to 12.04.1993, he became eligible for his absorption in the regular establishment.

6. It is submitted by Mr. Parida, learned counsel for the Petitioner that in spite of absorbing the Petitioner in the regular establishment in terms of the resolution issued under Annexure-2, the Petitioner was brought over to the work charged establishment vide order dated 18.01.2011 and he is continuing in the said establishment pursuant to that order.

7. Mr. Parida, taking into account the long continuance of the Petitioner as a D.L.R w.e.f. 01.09.1985 and in the work charged establishment w.e.f. 18.01.2011, prayed before this Court to direct the Opposite Parties to absorb the Petitioner in the regular establishment.

8. Mr. Parida in support of such assertion, brought to the notice of this Court, the decision of the Hon'ble Apex Court rendered 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.

9. Per contra, Mr. Balabantaray, learned counsel appearing for the Opposite Parties-State argued that taking into account the engagement of the Petitioner as a D.L.R prior to 12.04.1993, he was brought over to the work charged establishment vide order under Annexure-3-Series.

10. It is further submitted by Mr. Balabantaray learned counsel for the State that the Petitioner having been brought over to the work charged establishment he will be absorbed in the regular establishment in due course of

time and subject to availability of vacancy in the regular establishment.

11. Having heard learned counsel for the Petitioner and learned counsel for the State-Opposite Parties, this Court is of the view that in view of the long continuance of the Petitioner w.e.f. 01.09.1985, the claim of the Petitioner for his absorption in the regular establishment needs favourable consideration by the Opposite Parties.

12. Accordingly, while disposing the Writ Petition, Opposite Party No.1 is directed to take a lawful decision on the Petitioner's claim for his absorption in the regular establishment in the light of the judgment passed by the Hon'ble Apex Court as cited (supra). This Court directs the said Opposite Party No.1 to take a decision within a period of three months from the date of production of the certified copy of this order. The order so passed by the Opposite Party No.1 be also communicated to the Petitioner.

13. With the aforesaid observations and directions the Writ Petition (OAC) is disposed of.

14. Issue urgent certified copy of the order as per rules.

(Biraja Prasanna Satapathy)
Judge

Subrat