

IN THE HIGH COURT OF ORISSA AT CUTTACK

**WPC(OAC) Nos.4312, 4313, 4314, 4315, 4316, 4317, 4318,
4319, 4320, 4321, 4322, 4323, 4324 & 4325 of 2013 and
4509, 4510, 4511 & 4512 of 2014**

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

.....

Ganeswar Sahu

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

For Petitioner : M/s. D.K. Patnaik(Advocate)
T. Mishra (Advocate)
J. Sahoo (Advocate)

For Opp. Parties : Mr. R.N. Mishra
Addl. Govt. Advocate

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 29.06.2022 and Date of Order: 26.08.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical)
Mode.

2. Heard Mr. D.K. Patnaik, learned counsel for the Petitioner and Mr. R.N.
Mishra, learned AGA appearing for the Opp. Parties.

3. Since issue involved in all the writ Petitions are identical, all the writ Petitions are heard analogously and disposed of by the present common order.

4. All the writ Petitions have been filed with the following prayer:-

“It is, therefore, humbly prayed that this Hon’ble Tribunal may graciously be pleased to issue notice for show cause and call for the records and on perusal of causes shown and upon insufficient causes shown be pleased to:-

(i) *to direct the Respondents to regularize, the service of the applicant is Class-III post as)Office Asst.) shown in the gradation list and further be pleased;*

(ii) *to direct the Respondents to grant temporary status in Class-III post with salary and allowances attached to the Class-III post as like Work Charged employees pending regularization of service.*

And may pass such other order/orders, as be deemed just and proper;

And for this act of kindness, the Applicant shall as in duty bound ever pray.” सत्यमेव जयते

5. It is submitted that all the Petitioners were engaged as DLR under the Opp. Parties and they were allowed to work as against Class-III posts. It is submitted that even though the case of the Petitioners were recommended for regularization as against Class-III post, but the Petitioners were allowed temporary status as against Class-IV post.

6. It is submitted that because of such action of the Opp. Parties in allowing temporary status as against Class-IV post, the Petitioners were deprived of from getting higher salary and allowances. It is also submitted that similarly situated DLRs working in other divisions when were regularized as against Group-C & Group-D posts, Petitioners were only allowed temporary status,

that too, as against Group-D post. On the other hand Mr. Mishra, learned AGA appearing for the Opp. Parties made his submission in terms of the counter filed by O.P. No. 2. It is submitted that as there were no available Group-C post, the Petitioners have been conferred with temporary status as against Group-D post in pursuance of Finance Department Resolution dtd.04.09.2012.

7. It is further submitted that regular appointment of any category of employee in Group-C and Group-D post is to be made in accordance with cadre strength of particular establishment. Since there was no vacancy in Group-C in the Division, where the Petitioners were working, they were allowed temporary status as against Group-D post and no illegality has been committed by the Opp. Parties in extending such benefit.

8. Having heard learned counsel appearing for the Parties and after going through the materials available on record, this Court finds that the Petitioners have moved O.P. No. 1 with the prayer as made in the present writ Petition. However, this Court taking into account the nature of claim raised vis-à-vis the stand taken in the counter affidavit, permits the Petitioners to make fresh individual representation before O.P. No. 1.

9. It is observed that if any such individual representation is made by each of the Petitioners before O.P. No. 1 within a period of three (3) weeks from the date of receipt of this order, then the said O.P. No. 1 shall take a lawful decision on the same within a period of three (3) months from the date of receipt of such representation. Opp. Party No. 1 while considering the claim shall also take into consideration the benefit extended in favour of similarly situated DLRs of other Division as well as the long continuance of the Petitioners and the decisions 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***. The order so passed by O.P. No. 1 shall be communicated to the Petitioners individually within the aforesaid time period.

10. The writ Petitions are disposed of with the aforesaid observation and directions.

11. Xerox copy of the order be placed in all the connected records.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 26th of August, 2022/Sneha

