

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.4437 of 2011

Suban Sahu and others

....

Petitioners

Mr. B. Seth, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

15.02.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard Mr. B. Seth, learned counsel for the Petitioners and Mr. P.C. Das, learned Additional Standing Counsel for the State.
3. The present writ petition has been filed by the Petitioners with a prayer to quash the advertisement under Annexure-6 and further they have prayed for a direction to the Opposite Parties to appoint the Petitioners in regular Class-IV posts, pursuant to the direction of this Court under Annexures-1 and 3 within a stipulated period of time.
4. The case of the Petitioners is that they were initially working as Daily Wages paid Mullias at Government Ayurvedic Pharmacy, Bolangir from 1984 to 1997 regularly without any break of service. While the Petitioners along with others were working as such earlier approached this Court in O.J.C. No.3817 of 1989. The said writ petition has been disposed of on 18.11.1992 by this Court with a direction to the Opposite Parties to regularize the Petitioners, who

have been reemployed by them. Accordingly, some of them have been regularized. However, some were not so lucky. The present Petitioners fall in that group of unlucky persons and their services should be regularized by the authorities pursuant to the direction of this Court in O.J.C. No.3817 of 1989 by order dated 18.11.1992 under Annexure-1. Thereafter, the present Petitioners were retrenched in the year 1997 and till date, they have remained unemployed. Thereafter the authorities again published advertisement on 19.11.2011, for recruitment of several regular posts for Class-IV. The employees challenging that advertisement initially filed O.A. before the Odisha Administrative Tribunal.

The same was transferred and re-registered in this Court after abolition of Odisha Administrative Tribunal as the present writ petition.

5. Learned counsel for the Petitioners submits that since the service of the Petitioners have not been regularized, order of this Court dated 18.11.1992 and on 27.09.1997, an advertisement which was issued under Annexure-6 is illegal and unsustainable in the eye of law. As such, learned counsel for the Petitioners submits that in existing vacancy, the Petitioners should have considered for regularization against the regular vacancies.

6. It is further submitted by learned counsel for the Petitioners that by order dated 23.12.2011 Odisha Administrative Tribunal has passed an interim order stating that during the pendency of the O.A., a direction was given to the Opposite Parties to consider the case of the Petitioners for their regular appointment. When an advertisement was issued for the purpose, the Petitioners applied for the said posts pursuant to such advertisement as per the terms and conditions of the advertisement.

7. Mr. P.C. Das, learned counsel appearing for the State submits that it is too late in the day to make such prayer for regularization as the Petitioners were retrenched in the year 1997. However, he further submits that he has no objection, if a direction is given to the authorities to consider regularization of the Petitioners within a stipulated period of time, in the event the Petitioners approach the authorities with a detailed representation stating all their grounds.

8. Having heard learned counsel for the parties, this Court disposes of the writ petition with a direction to the Petitioners to submit a representation before the authorities within a period of two weeks from the date of production of the certified copy of this order and all supporting documents including the order passed by this Court earlier. In the event such representation is filed, the same shall be considered sympathically and in accordance with law within a period of three months from the date of filing of the representation. It is needless to mention here that the authorities shall consider the representation of the Petitioners and dispose of the same by passing a speaking and a reasoned order on the same. The decision taken on the same shall be communicated to the Petitioner within a period of two weeks thereafter.

9. With the aforesaid direction, the writ petition stands disposed of.

10. Urgent certified copy of this order be granted on proper application.