

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3064 of 2017

Simanchal Swain

.... ***Petitioner***
Mr.P.K.Mohapatra, *Advocate*

-versus-

State of Odisha and others

.... ***Opp.Parties***
Mr.P.C.Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

29.03.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for both the parties.
3. The Petitioner has filed this writ petition seeking direction to the Opposite Parties to count his past service rendered in the Job-Contract Establishment for the purpose of pension and pensionary benefit within a stipulated period.
4. Mr. Mohapatra, learned counsel for the Petitioner contended that similar matter has come up before this Court in O.J.C.No.2405 of 1985 and after constitution of the Odisha Administrative Tribunal the same was transferred to the Tribunal and registered as T.A.No.11 of 1993. The said case was disposed of on 21.10.1994 by the learned Tribunal by following the decisions of the Hon'ble Apex Court and by giving direction to the competent authority to count the past service rendered by the Petitioner in Job Contract Establishment

towards pension and pensionary benefit and after such orders were passed, pension of the Petitioner was directed to be calculated, drawn and disbursed in his favour within two months from the date of receipt of the copy of the judgment. The order passed in T.A.No.11 of 1993 was challenged before the Hon'ble Apex Court by the State, which was dismissed vide order dated 17.07.1995.

5. It is further contended that similar matter has also come up before this Court in O.J.C.No.2147 of 1991, which was decided on 24.03.1992 and this Court has considered the case of Job Contract employees for regularization of service and for pension and pensionary benefits. In O.A.No. 3020 (C) of 2003 (**Nityananda Biswal v. State of Orissa and others**), the Tribunal vide order dated 04.01.2004 also directed that the period of engagement of the Petitioner in Job Contract Establishment should be taken into account as qualifying service and accordingly his pension and other pensionary benefits be revised and paid to the Petitioner therein. The order passed in O.A.No.3020 (C) of 2003 was also challenged by the State before this Court in W.P.(C) No.14244 of 2006. This Court vide order dated 09.04.2014 dismissed the writ application preferred by the State against the order passed by the Tribunal. The State also preferred Special Leave to Appeal (C) CC No.12573 of 2015 against the order passed by this Court in W.P.(C) No.14244 of 2006, which was dismissed by the Hon'ble Apex Court vide order dated 13.07.2015.

6. In view of the aforesaid settled position of law, the petitioner is hereby directed to approach the authority by filing a detailed representation highlighting his grievance within a period of two weeks from today along with certified copy of this order. In the event such a representation is filed the same shall be considered in the light

of the judgment rendered in the case of (**Nityananda Biswal v.State of Orissa and others**) (supra) and if the Petitioner is entitled to any benefit as has been given in the said case, the Petitioner shall be extended all such benefit within a period of three months from the date of filing of such representation.

7. With the aforesaid observation the writ application stands disposed of.

8. Issue urgent certified copy of this order as per Rules.

RKS

(*A.K. Mohapatra*)
Judge

