

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC (OA) NO.2300 OF 2019

Kartikeswar Khosala

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

Order No

11.10.2022

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

2. Heard Ms.N. Patra, learned counsel for the petitioner and Mr. M. K. Balabantaray, learned Standing Counsel appearing for the State-opp. parties.

3. The petitioner has filed the present writ petition with the following prayer.

“The Hon’ble Tribunal may please to direct the State Respondents to absorb the applicant against a Group-D post from the date his junior was granted such benefit in order at Annexure-10.

The Hon’ble Tribunal may please to direct the respondents to extend the applicant all consequential benefits.”

4. It is submitted that the petitioner was initially engaged as a daily wage Cook-cum-Attendant in Government (SSD) High School, Champi in the district of Koraput coming under Opp. Party No.3. It is also submitted that while continuing as such on daily wage basis, the petitioner though was regularized vide order dated 19.6.1991, but the said order was cancelled vide order dated 29.10.1991 without issuing any show-cause and without giving opportunity of hearing to the petitioner. It is submitted that challenging such action, the petitioner

along with others approached the learned Tribunal in O.A. No.137 (C)/98 and other Original Applications. Ms. Patra submitted that all those Original Applications were disposed of by the learned Tribunal vide order dated 15.7.2011 under Annexure-4. It is also brought to the notice of the Court that in the tentative gradation list of the Cook-cum-Attendant published by opp. party no.3 under Annexure-5, the petitioner was placed at Sl. No.58. But it is submitted that though persons placed below him were absorbed in the regular establishment vide order issued on 23.5.2017 under Annexure-10 and 7.7.2018 under Annexure-11, but the petitioner was never absorbed in the regular establishment and retired while working on daily wage basis. Accordingly, Ms. Patra, learned counsel appearing for the petitioner submitted that necessary direction be issued to opp. parties to pass appropriate order for absorbing the petitioner in regular establishment and thereby enabling him to get the pension and other pensionary benefits.

5. Even though notice of the writ petition was issued since 2.8.2019, but no counter affidavit has been filed by the learned counsel for the State. However, Mr. Balabantaray, learned Standing Counsel submitted that since the petitioner without approaching the authority has filed the present writ petition, he may be directed to ventilate his grievance before the opp. parties.

6. Having heard learned counsel for the parties and taking into account the materials available on record, this Court finds that persons placed below the petitioner in the gradation list published under Annexure-5 were absorbed

in the regular establishment vide order issued under Annexures-10 & 11. Therefore, this Court while disposing the writ petition permits the petitioner to ventilate his grievance before opp. party no.1. It is observed that if any such petition is filed by the petitioner before opp. party no.1 within a period of two weeks from today, the said authority shall take a lawful decision on the same within a period of three months thereafter. It is however observed that while taking such a decision, the relevancy and effect of the order issued under Annexures-10 & 11 be taken into consideration. On such consideration, if the petitioner is found eligible to be absorbed in the regular establishment, then necessary follow-up action to be taken to extend the benefit as due and admissible in his favour within a further period of three months.

7. The Writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

sangita