

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.32084 of 2022

Pragati Bhuyan and others ***Petitioners***

Mr. A.K. Patanaik, Advocate

-versus-

State of Odisha and others ***Opp. Parties***

Mr. T.K. Pattanaik, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

30.11.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the petitioners as well as learned counsel for the State. Perused the record as well as documents annexed to the writ petition.
3. The present writ petition has been filed by the petitioners with a prayer for a direction to the Opposite Parties to implement the order No.26377 dated 17.11.2020 issued by the Opposite Party No.1 Government of Odisha, H & FW Department under Annexure-3 within a stipulated period of time.
4. It is submitted by learned counsel for the petitioners that initially, the petitioners were appointed on contractual basis pursuant to the advertisement under Annexures-1 and 2 as contractual Laboratory Technicians. Thereafter, they are continuing in their respective posts till date. A decision was taken to regularize the service of the petitioners under Annexure-3, which is the minutes of the High Power Committee dated 17.11.2020 wherein a decision was

also taken to regularize the service of the candidates. A decision has been taken in respect of the present petitioners and recommendation has been made for their induction. Further, the High Power Committee also directed the Chief District Medical & Public Health Officer, Bhadrak to issue appointment orders to the candidates, who are selected candidates and as such were selected for regular employment i.e. those, who have completed six years on contractual basis and also those, who have not completed six years taking into consideration category wise selection and strictly applying reservation condition as outlined under the relevant Rules, 2019. It is further submitted by learned counsel for the petitioners that in the meantime, contractual appointment Rule, 2013 has been repealed by the State Government a set of new rule notified on 16.10.2022 providing “save as otherwise provided in Rule 4, the Odisha Group-B posts (Contractual Appointment) Rules, 2013 and the Odisha Group “C” and Group “D” posts (Contractual Appointment) Rules, 2013 are hereby repealed on 16th of October, 2022. The said notification reveals that Rule-4 provides for a Special Provisions. The following provisions has been enacted:-

“4. Special Provisions—(1) The initial appointee appointed under the contractual Rules now in positions shall be deemed to have been appointed against the post on regular basis as on the date of commencement of these rules.

- (2) On such regular appointment under sub-rule(1), the pay of such employee shall be fixed by way of granting notional increments considering the date of his contractual appointment.
- (3) The employee who has been regularly appointed in the service after completion of 6 years of service under the respective Contractual Rules shall be allowed for fixation of their pay as on the date of commencement of these rules by way

of granting notional increments considering the date of his contractual appointment.

- (4) The employee whose services have been so regularized shall be allowed service benefits like promotion etc. in the cadre on notional basis to which they would have been entitled as per rules, had they been recruited on regular basis.
- (5) On commencement of these rules, the employee shall be assigned seniority in the care to which they would have been entitled as per rules, had they been recruited on regular basis.”

5. In such view of the matter, learned counsel for the petitioners submits that the petitioners are deemed to have been regularized as they are continuing in the said posts to be regularized in their posts in view of the Rule 4 containing Special Provisions under the repealing Rule 2022, who have completed six years of service.

6. Learned counsel for the State, on the other hand, submits that on perusal of the writ petition, it appears that the petitioners have approached Chief District Medical Officer, Bhadrak and the same is pending for consideration. He further submits at this stage that earlier the petitioners have filed a representations and no decision has been taken on the same as of now. However, there has been a change in the position of rules in the recent days. Therefore, he submits that the petitioners be directed to file a fresh representation before the Opposite Party No.3 i.e. Chief District Medical & Public Health Officer, Bhadrak by taking all the grounds, who shall take a decision as per the decision of the High Power Committee as well as Rule 4 repealing on 16th of October, 2022 in accordance with law within a stipulated period of time.

7. Considering the aforesaid submissions made by the respective parties, this Court disposes of the writ petition at the stage of

admission with a direction to the petitioners to file a fresh representation highlighting her grievances along with copies of the relevant documents in support of her claim before the Chief District Medical & Public Health Officer, Bhadrak (Opposite Party No.3) within a period of two weeks from today. In the event such a representation is filed within the aforesaid period, the same shall be considered in accordance with law within a period of six weeks from the date of receipt of the representation. The same shall be considered and disposed of by passing a speaking and reasoned order within the aforesaid time stipulated. Any decision taken on the same shall be communicated to the Petitioners within a period of two week thereafter. Further, it is observed that in the event the petitioners are eligible under new Rule-4 of 2022 Rules, he shall be regularized in service within a period of two months from the date of such decision by the Opposite Party No.3.

8. With the aforesaid observation/direction, the writ petition stands disposed of.

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

(A.K. Mohapatra)
Judge