

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.32089 of 2022

Sumitra Panda

....

Petitioner

Mr. S. Mohanty, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. N.K. Prajaraj, A.G.A.

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 petitioner 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 petitioner with a prayer for a direction to the Opposite Parties to regularized the petitioner in the post of MPHWF and further prays for a direction to pay all the consequential service benefits pursuant to regularization of petitioner's service in the aforesaid post.
4. At the outset, Mr. Mohanty, learned counsel for the petitioner submits that pursuant to the advertisement under Annexure-1 published on 25th of June, 2013, the petitioner appeared in the selection test and she was selected and thereafter appointed as MPHWF, Bhadrak under Bhadrak district. The appointment letter was issued by the Chief District Medical Officer, Bhadrak dated 28.11.2013 under Annexure-2 vide common appointment order.

While, the petitioner was continuing in service and discharging his duty diligently, the regularization of service of MPHWF was considered and deliberated upon by the High Power Committee of the Government. In the meeting of the said committee, which was held on 16.11.2020, a decision was taken in the matter of MPHWF. Accordingly, a list was prepared for regularizing the service of such employees.

5. It is further submitted by learned counsel for the petitioner that although the petitioner is senior to many other persons, the names of many junior employees were included in the said list and that the case of the petitioner has not been considered and not included in the said list by the authority concerned.

6. Referring to Rule-4 of the Notification dated 16th of October, 2022 published by the General Administration and Public Grievance Department, it is submitted by learned counsel for the petitioner that since contractual appointment Rule, 2013 has been repealed by the State Government by incorporating a Special Provision Rule in the shape of Rule-4, which says “save as otherwise provided in rule 4, the Odisha Group-B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. The special provision in Rule 4 of the repealing Rule, 2022 reads as follows:-

- “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 cadre to which they would have been entitled as per rules, had they been recruited on regular basis.”

7. Further referring to letters under Annexures-5 and 6, learned counsel for the petitioner submits that those, who are junior to the petitioner, have been regularized in the meantime thereby the authorities have discriminated the petitioner.

8. Learned counsel for the State, on the other hand, submits that on perusal of the writ petition, it appears that the petitioner has approached Chief District Medical Officer, Bhadrak and the same is pending for consideration. He further submits that at this stage, that earlier the petitioner had filed a representation, no decision has been taken on the same as of now and in the meantime, a rule has come into existence vide notification dated 16.10.2022. Therefore, he further contends let the petitioner 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 of the repealing Rules notified on 16th of October, 2022 in accordance with law within a stipulated period of

time.

9. 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 petitioner 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 and analysis made hereinabove within a period of six weeks from the date of receipt of the representation. Further, the representation shall be considered and disposed of by passing a speaking and reasoned order within the aforesaid time stipulation. Any decision taken on the same shall be communicated to the Petitioner within a period of two weeks thereafter.

10. 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