

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 32884 of 2022

Aruna Kumar Das

....

Petitioner

Ms. B.K. Pattnaik, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Arnav Behera, ASC

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

07.12.2022

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-Opposite Parties. Perused the writ petition and the documents annexed thereto.
3. This writ petition has been filed by the Petitioner with a prayer to direct to the Opposite Parties to bring over him to regular establishment from the date when he has completed ten years of service as per Finance Department Resolution dated 15.05.1997 under Annexure-1 with further prayer to direct Opposite Parties to grant all financial and consequential benefits flowing from regularization of his services. The Petitioner further challenges the Notification dated 4.11.2022 under Annexure-6 wherein the authorities have taken steps for direct recruitment to certain categories of posts.

4. It is submitted by the learned counsel for the Petitioner that the Petitioner was initially appointed as a Junior Clerk on DLR basis w.e.f. 1.4.1993. Thereafter, continued in the said post without any interruption. He was brought over the work charged establishment w.e.f. 11.2.2011. She further submits that the Petitioner's case is covered by the Finance Department Resolution dated 15.05.1997 and, accordingly, the services of the Petitioner should have been regularized after completion of ten years of service in view of the Finance Department Resolution dated 15.05.1997 as well as the judgment of the Hon'ble Supreme Court in the case of ***Secretary, State of Karnataka & Others v. Umadevi (3) and Others, reported in (2006) 4 SCC 1***. However, the service of the Petitioner has not yet been regularized and he has not been paid the financial benefit attached to the regular post.

5. It is further contended by the learned counsel for the Petitioner that in the High Power Committee meeting held on 1.11.2022 under the Chairmanship of Principal Secretary to Government, Finance Department for approval on filling up of base level vacant post by direct recruitment. In the said meeting, it was decided that some posts to be filled up by absorption from among the work charged employees and some by way of direct recruitment. In view of such decision, learned counsel for the Petitioner submits that without regularizing the service of the Petitioner first, the authorities have come out with a Notification dated 04.11.2022 under Annexure-6 to fill up the direct recruitment posts. Therefore, it is submitted by the learned

counsel for the Petitioner that the authorities be directed to fill up the posts first by absorbing the work charged employees those who have been working since 1.4.1993 on NMR/DLR basis with a meager salary uninterruptedly since for their initial appointment.

6. Learned counsel for the State, on the other hand, submits that the issue of regularization/absorption of work charged employees those who have been working in the establishment on regular basis uninterruptedly (consideration of the Government) and the Government has already taken decision to regularize their services proportionately along with direct recruitment candidates. Therefore, the Petitioner be directed to approach the authority first before approaching this Court by filing the writ petition. He further submits that in the event the Petitioner approached the authority, the authority be directed to consider the case of the Petitioner in accordance with law within a stipulated period of time.

7. Considering the submission made by the learned counsel appearing for the respective parties, this Court disposes the writ petition at the stage of admission by directing the Petitioner to approach the Opposite Party No.1 by filing a representation taking therein all the ground available to him and in the event such representation is filed, the Opposite Party No.1 shall do well to consider and dispose of the same in accordance with law by passing a speaking and reasoned order within a period of two months from the date of filing such representation. It is needless to mention here that the Opposite Party No.1 while considering

the representation of the Petitioner shall keep in mind the Clause-8 of the Finance Department Resolution dated 15.05.1997 as well as the law laid down by the Hon'ble Supreme Court in the case of *Umadevi* (supra). The decision so taken on the representation of the Petitioner be communicated to the Petitioner within two weeks thereafter.

(A.K. Mohapatra)
Judge

Debasis

