

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.40777 of 2021**

***Ragini Mukhi @ Ghasi***

....

***Petitioner***

***Mr. S.B. Swain, Advocate***

***-versus-***

***State of Odisha and others***

....

***Opp. Parties***

***Mr. S. Mishra,***

***Standing Counsel for S & ME***

**CORAM:**

**JUSTICE A.K. MOHAPATRA**

**ORDER**

**06.01.2022**

**Order No.**

01. 1. This matter is taken up through Hybrid Arrangement (Video Conferencing/Physical Mode).
2. The present writ petition has been filed by the Petitioner seeking a direction to regularize her service and to pay the arrear differential and present salary attached to the post of regular sweeper.
3. It is submitted by learned counsel for the Petitioner that the Petitioner, who was engaged as a Sweeper in Government Women's College, Sundargarh prior to 12.04.1993 and working as such till date without any interruption and intervention of any court of law has filed the above noted writ petition inter alia praying for regularization of her services against an existing Group-D vacancy as Sweeper in Government Women's College, Sundargarh from the date of Finance Department Resolution No.31715 dated 04.09.20212 and other consequential service benefits.
4. The facts of the Petitioner's case, in a nutshell, is that she was engaged as a Sweeper in Government Women's College, Sundargarh

prior to 12.04.1993. The Petitioner is aged about 54 years now. Although she has submitted several representations to the Principal of the college (Opposite Party No.4) for regularization of her service. Pursuant to which the Principal has recommended her case for regularization to the Government, i.e. Director, Higher Education Odisha, Bhubaneswar. The authorities have not considered the case of regularization of her services as of now. The Petitioner's further case is that she has rendered about 29 years of continuous uninterrupted service to the Opposite Party No.4 college as a sweeper.

5. Learned counsel appearing for the Petitioner draws the attention of this Court to Office order dated 03.06.2017 passed by the Principal, Government Women's College, Sundargarh, which indicates that the Petitioner was assigned the duty of a sweeper to serve the Admission Committee for e-Admission 2017-18. The Opposite Party No.4 vide letter dated 28.08.2018 informed the Petitioner and another person, namely, Sri Nabin Bhainsal, Peon of the very same college for submission of documents so that their names, will be recommended to the Government for absorption in Group-D vacancies as per Finance Department Resolution No.31715 dated 04.09.2012 and accordingly, the Petitioner was directed to submit the documents mentioned in the said letter for onwards transmission to the Government for further consideration.

6. The Principal, Government Women's College-Opposite Party No.4 vide letter No.1161 dated 01.11.2018 addressed to the Director, Higher Education, Odisha, Bhubaneswar-Opposite Party No.2 has informed that the present Petitioner was engaged as a Sweeper in the hostel of Government Women's College, Sundargarh prior to 12.04.1993 and she is continuing till date. In the said letter Director,

Higher Education, Odisha, Bhubaneswar was requested to grant approval for conferment of temporary status in favour of the Petitioner and along with the said letter the Opposite Party No.4 has also forwarded the relevant certificates pertaining to the Petitioner to consider her case for regularization of her service.

7. The petitioner has filed Office Order No.802 dated 16.11.2020 issued by the In-charge Principal of the Government Women's College, Sundargarh which reveals that the remuneration the Petitioner is getting monthly for her service has been increased from Rs.3,800/- to Rs.4,300/- w.e.f 01.11.2020. The Opposite Party No.4 again on 25.02.2021 wrote a letter to the Director, Higher Education, Odisha, Bhubaneswar-Opposite Party No.2 request him to grant temporary status and for absorption of casual / daily wage labourer engaged in the Government Women's College, Sundargarh prior to 12.04.1993. In such letter, the name of the present Petitioner has been specifically referred to.

8. Heard Mr. B.B. Swain, learned counsel for the Petitioner and Mr. S. Mishra, learned Standing Counsel appearing for the School and Mass Education Department.

9. Perused the materials available on record.

10. It is submitted by learned counsel appearing for the Petitioner that although the Petitioner has rendered uninterrupted and continuous service as sweeper for last 29 years at the Government Women's College, Sundargarh, her services has not been regularized as of now despite several representations submitted before the Opposite Parties. It is further submitted by learned counsel for the Petitioner that the Petitioner is getting consolidated amount of Rs.4,300/- every month, which is less than the amount payable in view of the provisions contained in the minimum wages Act. As

such, it is alleged that such conduct of the Opposite Parties amounts to exploitation of labour forces by the Government Agencies.

11. Learned Standing Counsel appearing for the State opposed the prayer for regularization of service of the Petitioner stating that the appointment is illegal and irregular.

12. Having heard learned counsel for the parties, this Court is of the considered view that the Petitioner has been discharging her service continuously and uninterruptedly since 29 years in view of letter dated 25.02.2021 (under Annexure-5 to the writ petition) written by the Opposite Party No.4 wherein he has recommended the case of the Petitioner for regularization and the Opposite Party No.4 has not raised any objection with regard to the nature of appointment of the Petitioner, more particularly, nothing has been stated in the said letter with regard to nature of the appointment. Therefore, it can safely be presumed that initially appointment of the Petitioner was legal and regular. Moreover, if the appointment of the Petitioner is illegal, the Opposite Party No.4 should not have allowed the Petitioner to continue in service for a meager salary for almost three decades.

13. After considering the materials available on record as well as submissions made by both the sides, this Court is of the considered view that the present case is a glaring example of exploitation of work force by the employer. It is most unfortunate to indicate here that a Government college has indulged in such practice and continuing with the illegalities despite observations made by the Hon'ble Supreme Court of India in the case of ***Secretary, State of Karnataka vrs. Uma Devi*** : reported in AIR 2006 S.C. 1806. An identical issue of exploitation of an employee by a Government

College had engaged the attention of this Court in the case of ***Basanta Kumar Barik vrs, State of Odisha and others*** (WPC (OA) No.616 of 2017) disposed of on 26.11.2021. While taking note of leading judgments on the subject this Court finally directed the authorities to consider the case for regularization of the Petitioner in the light of ***Uma Devi's case*** (supra) and to pay all the legitimate dues payable to the Petitioner in that case. The fact of the present case is similar to the facts of the case in ***Basanta Kumar Barik vrs. State of Odisha and others***(supra).

14. In view of the aforesaid analysis, the present writ petition is being disposed of with a direction to the Opposite Parties to consider the case for regularization of the Petitioner service in the light of the judgment rendered in the case of ***Basanta Kumar Barik vrs. State of Odisha and others*** (supra) within a period of three months from the date of production of certified copy of this order. In the event the service of the Petitioner is regularized, it is needless to say that the authorities shall calculate all the arrear dues payable to the Petitioner within a period of one month from the date of such decision. The Opposite Parties are further directed to pay current dues as well as service benefits as due and admissible in law to the Petitioner.

15. With the aforesaid direction, the writ petition stands disposed of.

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