

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.34886 of 2022

Anima Digal

.... ***Petitioner***
Mr. K.C. Sahu, Advocate

-versus-

State of Odisha and others

.... ***Opp. Parties***
Mr. B. Pr. Tripathy, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.12.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and the learned Additional Government Advocate.
3. The present writ application has been filed with a prayer for a direction to the Opposite Parties to treat the Petitioner as regular Staff Nurse with effect from 18.04.2001 with all consequential service benefits including the pension with effect from the aforesaid date keeping in view the order passed by the Orissa Administrative Tribunal dated 25.09.2014 and direction for implementation of order dated 08.06.2016 which has been annexed as Annexures-6 & 7 to the writ application.
4. It is submitted by the learned counsel for the Petitioner that the present Petitioner joined as Staff Nurse on 18.04.2001 and she was continuing as Staff Nurse thereafter. He further contends that two other Staff Nurse, namely, Smt.Geetarani Nayak and Smt.Menaka Swain approached the Orissa Administrative Tribunal in O.A.No.794

of 2012. The Tribunal after hearing the matter on 25.09.2014 disposed of the original application by allowing the original application to the extent that the services of the two applicants be regularized and they be regularized and they be treated as regular staff Nurse with effect from 18.06.2003 i.e. the date on which the stay order was vacated as has been done in the case of Pharmacists and further directed that they will be extended all the service benefits including the pension with effect from the said date. However the direction of the Tribunal was also qualified by a further direction that they will not be entitled to actual financial benefit and regular scale of pay while they were continuing under contractual service, but their seniority shall be counted for service benefits including pensionary benefits under the OCS (Pension) Rules, 1992. It is further contended by the learned counsel for the Petitioner that after disposal of the aforesaid original application, which was under challenge further by the State. Two other persons namely Manoj Manjari Nayak in W.P.(C) No.31619 of 2020 and Kadambini Das in 31620 of 2020 have approached this Court with similar nature of prayer. A coordinate Bench of this Court by order dated 24.11.2020 disposed of the matter with a direction to the Petitioners to approach the authority by filing a writ application and in such eventuality the representation shall be considered by Opposite Party No.1 taking into consideration the implementation of orders dated 25.09.2014 passed by the Orissa Administrative Tribunal, Bhubaneswar Bench, Bhubaneswar in O.A.No.794 of 2021 and further taking into consideration the implementation of order dated 08.06.2020.

5. Learned Additional Government Advocate on the other hand submits that the Petitioner has not approached the Departmental Authority for redressal of his grievance, instead he has approached

this Court by filing the present writ application. It is further submitted by the learned counsel for the State that the Petitioner may be directed to approach the departmental authority stating all the grounds including the ground that similarly situated persons have been extended such benefit and in such event the representation is filed, the same shall be considered in accordance with law within a stipulated period of time.

6. Considering the submissions made by the respective parties and further considering the factual backgrounds and the fact that the similarly situated persons have been extended such benefit, the writ application is disposed of at the state of admission by directing the Petitioner to file a comprehensive representation within a period of three weeks from today along with copy of the order passed by the Tribunal in similar case. In the event such a representation is filed, the Opposite Party No.1 shall do well to consider the same in accordance with law and in the light of the order passed by the Tribunal and further keeping in view the fact that such benefit has been extended to similarly situated Staff Nurse Manoj Manjari Nayak and Kdamnbini Das and pass necessary orders within a period of two months from the date of filing of the representation. The decision so taken be communicated to the Petitioner within two weeks thereafter.

7. With the aforesaid observation and direction the writ application is disposed of.

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

(A.K. Mohapatra)
Judge