

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35281 of 2022

Surendra Kumar Mallick

....

Petitioner

Mr.P.K.Mohapatra, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. B.P.Tripathy, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.12.2022

Order No.

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Government Advocate.
3. The Petitioner has filed the present writ application seeking direction to the Opposite Parties to count his past service rendered in the Job Contract Establishment for the purpose of pension and pensionary benefit within a stipulated period.
4. Mr.Mohapatra, learned counsel for the Petitioner contended that similar matter has come up before this Court in O.J.C.No.2405 of 1985 and after constitution of the Odisha Administrative Tribunal the same was transferred to the Tribunal and registered as T.A.No.11 of 1993. The said case was disposed of on 21.10.1994 by the learned Tribunal by following the decisions of the Apex Court and by giving direction to the competent authority to count the past service rendered by the Petitioner in Job Contract Establishment towards

pension and pensionary benefit and after such orders were passed, pension of the Petitioner was directed to be calculated, drawn and disbursed in his favour within two months from the date of receipt of the copy of the judgment. The order passed in T.A.No.11 of 1993 was challenged before the Apex Court by the State, which was dismissed vide order dated 17.07.1995.

5. It is further contended that similar matter has also come up before this Court in O.J.C.No.2147 of 1991, which was decided on 24.03.1992 and this Court has considered the case of Job Contract employees for regularization of service and for pension and pensionary benefits. In O.A.No.3020 (C) of 2003 (**Nityananda Biswal Vs.State of Orissa and others**), the Tribunal vide order dated 04.01.2004 also directed that the period of the engagement of the Petitioner in job contract establishment should be taken into account as qualifying service and accordingly his pension and other pensionary benefits be revised and paid to the Petitioner therein. The order passed in O.A.No.3020 (C) of 2003 was also challenged by the State before this Court in W.P.(C) No.14244 of 2006. This Court vide order dated 09.04.2014 dismissed the writ application preferred by the State against the order passed by the Tribunal. The State also preferred Special Leave to Appeal (C) CC NO.12573 of 2015 against the order passed by this Court in W.P.(C) No.14244 of 2006, which was dismissed by the apex Court vide order dated 13.07.2015.

6. Additionally learned counsel for the Petitioner submits that W.P.(C) No.21611 of 2011 (All Orissa Settlement and Consolidation Non-Gazetted Technical Officers Association, Dhenkanal approached this Court challenging the order passed in O.A.No.3665 (C) of 2001 dated 10.03.2011 by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack. This Court after hearing learned counsel for

the respective parties by taking into consideration the order passed in T.A.No.11 of 1993 dated 21.10.1994 in the other related matters including the judgment in (**Nityananda Biswal v.-State of Orissa and others**) came to a conclusion that the position of law is well settled and nothing remains to be decided in that case. Accordingly, order passed by the Tribunal is set aside and accordingly the Opposite Parties were directed to extend all such benefits to all the members of the Petitioners association in terms of the direction given by the Court. The said order dated 19.04.2022 passed by the Division Bench in W.P.(C) No.21611 of 2011 was assailed before the Hon'ble Supreme Court by the State of Orissa by filing SLP (Civil) Diary No.(s) 36299/2022. The Hon'ble Supreme Court after hearing the learned counsel for the State-appellant was pleased to dismiss the SLP. Therefore, the order passed by the Division Bench in W.P.(C) 21611 of 2022 has attained finality.

7. In view of the above settled position of law, nothing remains to be reconsidered by this Court. Accordingly, the Opposite Parties are directed to extend all such benefits in favour of the Petitioner in terms of the directions given by the Court as mentioned above, as expeditiously as possible, preferably within a period of three months from the date of communication of the certified copy of the order.

8. With the aforesaid observation, the writ application stands disposed of.

9. Issue urgent certified copy of this order as per Rules.