IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12819 of 2021

Muktesh Munda and others ..... ***Petitioners***

Represented By Adv. –
Mr. P.K. Mohapatra

-versus-

Punjab National Bank and others. ..... ***Opposite Parties***

Represented By Adv. –

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

Order No. **ORDER**
22.04.2024

04. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the Petitioners.

3. The Petitioners have filed this application seeking direction to the Opposite Parties to regularize their services in a Group-D posts taking into account their continuous service of 10 years as expeditiously as possible.

4. Learned counsel for the Petitioners states that the Petitioners have been continuing in their post in Punjab National Bank on DLR basis. In the meantime, as their post has been sanctioned, the services of the Petitioners should be regularized against the said post. He has referred to the case of ***State of Karnataka v. Umadevi, 2006(4) SCC***

1, wherein in paragraph 53**,** the apex Court has held that the State Government and their instrumentalities should take steps to regularise as one-time measure the services of such irregularity appointed who have worked for ten years or more in duly sanctioned posts. Similar view has also been taken by the apex Court in ***State of Karnataka and others v. M.K.Keshari and others*****,** *2010(II) OLR (SC) 982*, wherein in paragraph 7 the apex Court has held as follows:

> "It is evident from the above that there is an exception to the general principles against 'regularisation' enunciated in Umadevi if the following conditions are fulfilled :
>
> i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.
>
> ii) The appointment of such employee should not be illegal even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possesses the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualification and was working against sanctioned posts, but had been selected without undergoing the process of open competitive-

selection, such appointments are considered to be irregular."

5. In that view of the matter, since the Petitioners are continuing against sanctioned post of Class-IV and completed 10 years of service and even though their appointment is irregular they should be regularized in service in view of the judgment of the apex Court in *Umadevi (*supra*)* and *M.L.Keshari (*supra*).*

6. It is of relevance to note that in a similar case, in respect of Angul Municipality, this Court vide order dated 27.11.2014 in W.P.(C) No.26860 of 2013 directed the Opposite Parties to regularise the services of the Petitioner therein in view of the judgment of the apex Court in *Umadevi (supra) and M.L.Keshari (supra).* Against the said order dated 27.11.2014 the state of Odisha, as well as Angul Municipality preferred W.A.No.407 of 2015, which was dismissed on 19.01.2016 passed in W.A.No.407 of 2015, the State as well as Angul Municipality filed S.L.P. before the apex Court and by a common order dated 13.05.2016 the S.L.P was dismissed. Consequentially, the State authorities issued office order dated 06.06.2016 for regularizing the Petitioner in the said writ application. Furthermore, in W.P.(C) No.10100 of 2010 filed by Dhruba Charan Nayak of Paradeep Municipality this Court passed similar order on 07.07.2017 and pursuant thereto the benefit has already been extended to the Petitioners therein.

7. In view of such position, the Opposite Parties are directed to consider regularization of the services of the Petitioners and grant all consequential benefits as due and admissible to them in accordance with law within a period of three months from the date of production of a certified copy of this order.

8. With the aforesaid observation and direction, the Writ Petition is allowed.

Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

Debasis

Signature Not Verified
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Reason: Authentication
Location: OHC, CUTTACK.
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