IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No. 18949 of 2026
CNR No. ODHC010446972026

Radhakanta Moharana	***.....***	***Petitioner***
		Mr. S.P. Pati, Advocate
	-versus-	
State of Odisha & Ors.	***.....***	***Opposite Parties***
		Mr. S.P. Das, ASC
		Mr. S.K. Patra, Advocate
		(Opp. Party No. 5)

CORAM:
THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY
ORDER
29.10.2026

Order No. 06 I.A. No. ……. of 2026 & W.P.(C) No. 18949 of 2026

1. This matter is taken up through hybrid mode.

2. Heard learned counsel appearing for the Parties.

3. Petitioner has filed the present writ petition inter alia with the following prayer:-

> *"The petitioner therefore prays that Your Lordships would graciously be pleased to allow this writ application with following reliefs;*
>
> *(i) Hon'ble Court may be pleased to quash the order under Annexure-8 dated 18.09.2025 rejecting the prayer for regularization of service for grant of pension and pensionary benefits, as it relates to the petitioner, And accordingly*
>
> *(ii) The Hon'ble Court may be pleased to direct the opp. parties to sanction and disburse the pension and pensionary benefits payable to the petitioner under*

OCS(Pension) Rules, 1992 by regularizing his work-charged service being similar benefits of regularization and pension extended to others in identical cases as well as implementation orders under Annexures-9 series, 10 series and 10/1 series, Annexure-11 and 11/1 series respectively, within a stipulated period, And

(iii) be pleased to pass such other order/orders as deemed fit and proper in the facts and circumstances of the case,

And for which act of kindness, the petitioner shall as in duty bound ever pray."

4. Considering the ground of challenge to the impugned rejection, this Court passed the following order on 02.07.2026 and further order on 02.09.2026:-

"2. Heard learned counsel appearing for the petitioner and Mr. Sahoo, learned Additional Standing Counsel for the State.

3. Learned counsel for the petitioner contended that even though the petitioner continued in the work-charged establishment all through till his retirement and his claim to get the benefit of pension and other pensionary benefits, is covered by the order passed by this Court in the case of Narsu Pradhan, so confirmed by this Court as well as Apex Court with extension of benefit, but claim of the petitioner has been rejected vide impugned order dated 18.09.2025 under Annexure-8 by Opp. Party No.1.

4. Learned ASC is directed to obtain instruction as to why petitioner will not be covered by the order passed by this Court in the case of Narsu Pradhan.

5. As requested by the learned Additional Standing Counsel, list this matter in the week commencing 27th July, 2026.

xxx *xxx* *xxx*

2. Heard learned counsel for the Parties.

3. Learned Addl. Standing Counsel contended that pursuant to the letter issued by him to Executive Engineer-Opp. Party No.4 has sought for instruction from the Govt. as to whether, Petitioner's claim is covered by the decision of the Tribunal so passed in the case of Narusu Pradhan Vs. State of Odisha & Ors. in W.P.(C) (OAC) No. 3248 of 2018.

4. This Court does not appreciate the instruction being sought for from the office of executive Engineer when Petitioner's claim to get the benefit for pension being a retired employee.

5. However, on the request made by the learned Addl. Standing Counsel, list this matter on 22.09.2026 along with W.P.(C) No.12221 of 2026. 6. Necessary instruction be obtained before the next date positively."

4.1. On the face of the order passed on 02.07.2026 and 02.09.2026, when no instruction was provided, this Court passed the following order on 14.10.2026:-

"2. Heard learned counsel appearing for the Parties.

3. On the face of the order passed by this Court on 02.07.2026, 03.08.2026, 02.09.2026 and 22.09.2026, no instruction has yet been obtained from the authority, who has passed the impugned order under Annexure-8.

4. Learned Addl. Standing Counsel for the State contended that even though vide letter dtd.07.09.2026 and

23/24.09.2026, instruction has been called for, but no instruction has yet been provided.

5. Considering the nature of order passed by this Court and the fact that on the face of the letters issued by the Office of the Advocate General, there is no response, this Court directs for personal appearance of the authority, who has passed the impugned order namely Addl. Chief Secretary to Government Department of Water Resources before this Court on 28.10.2026.

6. List this matter on 28th October, 2026 along with the connected matters listed for today.

Free copy of this order be handed over to Mr. S.P. Das, learned ASC for compliance."

5. Pursuant to order dtd.14.10.2026, even though a direction was issued for appearance of Opp. Party No. 1 who had passed the impugned order, but Sri Narahari Sethi, Addl. Secretary to the Department appeared through Virtual Mode, and filed an I.A. through the learned ASC, with a prayer to dispense with the personal appearance of Opp. Party No. 1 on the ground indicated in the I.A..

6. I.A. so filed in Court be registered.

7. It is contended by the learned Addl. Standing Counsel that since Petitioner while continuing in the work charged establishment w.e.f.09.04.1980, he retired from his service on 31.01.2011 without being regularized, the decision in the case of ***Narusu Pradhan vs. State of Odisha & Ors.*** (O.A. No. 1189(C) of 2006) so passed by the Tribunal under Annexure-9 series cannot be made applicable to the case of the Petitioner, as the aforesaid Narusu Pradhan had retired in

the year 1998 with his date of appointment in the year 1966. It is accordingly contended that Petitioner's claim has been rightly rejected vide the impugned order under Annexure-8 along with others.

Instruction provided by the Department vide letter dtd.27.10.2026 under Annexure-A/1 to the I.A. reads as follows:-

"From

Sri K. Raj Sekhar Rao
Under Secretary to Govt.

To

The Advocate General, Odisha, Cuttack.

Sub:- WP(C) No.18949/2026 filed by Radhakanta Moharana-vrs-State of Odisha & Others).

Ref: Your Good Office letter No.52790, dated 15.10.2026

Sir,

In inviting a reference on the subject cited above, I am directed to say the following facts in connection with the WP(C) No.18949/2026 filed by Radhakanta Moharana-vrs-State of Odisha & Others):-

Sri Radhakanta Maharana, was initially appointed as a Mechanic Grade-II on 09.04.1980 under the Work-Charged Establishment in the Office of the F.M. Sub-Division No. II, U.I. Project, Khatiguda. He was retired from service on 31.01.2011 (A.N.) on attaining the age of superannuation.

Whereas, Shri Narasu Pradhan was working under the Bhanjanagar Irrigation Division under the Work-Charged Establishment in the year 1966 and retired from service in 1998 without regularisation. Subsequently, he approached the OAT by filling O.A. No.1189(C)/2006 seeking regularisation of his service and grant of pension. The order dated 11.06.2009 of the Learned O.A.T passed in O.A. No. 1189(C)/2006 was confirmed vide order dated 19.12.2011 of the Hon'ble High Court of Orissa passed in W.P.(C) No. 5377 of 2010. The decision in his favour was upheld by the Hon'ble Supreme Court, following which

pensionary benefits were granted to him by notionally regularising his service through the creation of a supernumerary post.

It is therefore, requested that the above fact may kindly be placed before the Hon'ble High Court of Orissa on the next date of hearing i.e. on 28.10.2026 for their kind perusal.

The Opposite Party No. 1 has the highest regard to the Hon'ble High Court of Orissa and their Order so passed."

8. To the submission made by the learned Addl. Standing Counsel, learned counsel appearing for the Petitioner contended that even though Narusu Pradhan retired in the year 1998 while continuing in the work charged establishment w.e.f. the year 1966, but he approached the Tribunal by filing an application in O.A. No. 1189(C) of 2006, claiming the benefit of regularization as well as extension of the benefit of pension under OCS (Pension) Rules, 1992. The said Original Application was disposed of by the Tribunal vide order dtd.11.06.2009 with the following direction:-

> *"Considering all aspects, the aforesaid decision is made for "ipso facto" applicable to this case as the applicant is similarly placed. The respondents are directed to regularize the applicant against available post on completion of five years of service in the work charged establishment and fix his pay allowing him notional increment as due and then pay him pensionary dues taking his notional increments into account as decided in the cases referred to by the learned counsel for the applicant. This task be completed within a period of six months."*

8.1. It is contended that the order of the Tribunal was not only upheld by this Court but also by the Apex Court with dismissal of the writ

petition vide order dtd.19.12.2011 in W.P.(C) No. 5377 of 2010 and by the Apex Court with dismissal of the appeal after condoning the delay on 07.01.2013 in Special Leave to Appeal (C) No. 22498 of 2012.

8.2. It is further contended that order passed in the case of Narusu Pradhan has already been implemented. Not only that following the order passed in the case of Narusu Pradhan, claim of similarly situated employee in the case of ***Chandra Nandi vs. State of Odisha*** (W.P.(C) No. 7680 of 2019), ***Pitambar Sahoo vs. State of Odisha*** (O.A. No. 4189(C) of 2013) was also allowed and basing on such order they have been extended with the benefit of pension and pensionary benefits.

8.3. It is contended that taking into account the nature of the order passed in the case of Narusu Pradhan with extension of the benefit of pension, Petitioner since was appointed in the work charged establishment on 09.04.1980 and retired on 31.01.2011, he is to be treated to have been regularized in the work charged establishment, after completion of 5 years of service and by allowing him notional increment as due and admissible, his pensionary benefits be released with quashing of the impugned order dt.18.09.2022, so passed by Opp. Party No. 1 under Annexure-8, so far as it relates to the claim of the Petitioner.

9. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds and which is not disputed, Narusu Pradhan entered into service in the work charged establishment in the year 1966 and retired from service in the year

1998 without getting the benefit of regularization. He approached the Tribunal by filing O.A. No. 1189(C) of 2006 seeking regularization of his service and for grant of pension.

9.1. The said O.A. was disposed of with a direction to regularize him on completion of 5 years of service in the work charged establishment and to extend with the benefit of pension under OCS (Pension) Rules, 1992. The order passed by the Tribunal was not only upheld by this Court with dismissal of W.P.(C) No. 5377 of 2010 vide order dtd.19.12.2011, but also the same was confirmed by the Apex Court after condoning the delay vide order dtd.07.01.2013 in Special Leave to Appeal (C) No. 22498 of 2012.

9.2. This Court taking into account the nature of order passed by the Tribunal in the case of Narusu Pradhan, is of the view that since Petitioner was appointed in the work charged establishment on 09.04.1980, he is to be treated as a regular employee on completion of 5 years of service in the work charged establishment and by extending the benefit of notional increment as due and admissible, Petitioner is eligible and entitled to be released with his pension and other pensionary benefits as provided under OCS (Pension) Rules, 1992.

9.3. Therefore, this Court while quashing order dtd.18.09.2022 so passed by Opp. Party No. 1 under Annexure-8 so far as it relates to the case of the Petitioner, directs Opp. Party No. 1 to treat the Petitioner to have been regularized in his services on completion of 5 years of engagement in the work charged establishment w.e.f.09.04.1980, and by treating him to be a regular employee with

extension of notional increment as due and admissible, pension and other pensionary benefits in terms of OCS (Pension) Rules, 1992 be released in his favour. This Court directs Opp. Party No. 1 to complete the entire exercise within a period of three (3) months from the date of receipt of this order.

10. In view of the quashing of the order, this Court does not require the personal appearance of Opp. Party No. 1.

11. The writ petition as well as I.A. accordingly stand disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Sneha

Signature Not Verified
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Signed by: SNEHANJALI PARIDA
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 30-Oct-2026 16:47:08