IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No.2679 of 2025

Srinibas Majhi ..... ***Petitioner***

Represented By Adv. -
Satyajit Behera

-versus-

State Of Odisha & Ors. ..... ***Opposite Parties***

Represented By Adv. –
Samaresh Jena, A.S.C.

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

ORDER
25.03.2025

Order No.

02. 1. This matter is taken up through Hybrid mode.

2. Heard learned counsel for the Petitioner as well as learned counsel for the State-Opposite Parties. Perused the writ application as well as the documents annexed thereto.

3. The Petitioner has filed the present writ application with the following prayer:

> *"Under the aforesaid facts and circumstances, it is humbly therefore prayed that this Hon'ble Court may graciously be pleased to issue a writ in the nature of mandamus or any other appropriate writ/writs by quashing the order dated 21.10.2024 passed by the opp.party No.1 under Annexure-12;*
>
> *And further be pleased to direct the opp.parties to regularise the service of the petitioner against available post on completion of 5 years of service in work charge establishment and fix his pay allowing him notionally increments and extend the benefits of pension as has been extended in favour of the Narusu Pradhan, Pitambar Sahoo, Jhaseketan Samal forthwith with all consequential*

service benefits with interest on delayed payment of pension;

Or pass any other order/orders as this Hon'ble Court may think fit and proper,"

4. Learned counsel for the Petitioner at the outset contended that the Petitioner was initially appointed as a Helper under the work charge establishment on 01.04.1981 in a specific scale of pay and subsequently promoted to Truck Driver w.e.f. 16.11.1981. He further contended that a service book was opened and accordingly the Petitioner is getting salary according to the scale of pay as has been mentioned in his service book from time to time. He further contended that the Petitioner has also gotten increments and he has been transferred from one division to another division. As such, the Petitioner was being treated as a regular employee by the Opposite Parties. Further, referring to the letters of his transfer under Annexure-2, 3 & 4, learned counsel for the Petitioner submitted that the Petitioner was transferred to different divisions as a regular employee by the Opposite Parties. He further contended that the name of the Petitioner was included in the gradation list of work charge employees prepared in respect of the Subarnarekha Irrigation Project.

5. In course of his argument, learned counsel for the Petitioner, referring to the Finance Department Resolution dated 22.01.1965, contended that on completion of five years' of service in the work charge establishment, the Petitioner should have been brought over to the regular establishment. However, no such formal order was passed for bringing the Petitioner over to the regular establishment although the Petitioner has been treated as a regular employee by opening his service book and granting him a scale of pay as well as increments as

is due and admissible to the regular employees. Finally, while working as such, the Petitioner has found surplus. He further contended that prior to his retirement, the Petitioner had approached the learned OAT by filing OA No.3042 of 2001. During the pendency of the OA application, the Tribunal was abolished and the matter was transferred to this Court and was renumbered as W.P.C.(OAC) No.3042 of 2001. A Coordinate Bench of this Court vide order dated 18.03.2024 disposed of the aforesaid writ petition by directing the Opposite Parties to consider the individual representation of the Petitioner.

6. Learned counsel for the Petitioner further contended that after disposal of the earlier writ petition vide order dated 18.03.2024, the Petitioner approached the Opposite Party No.1 by filing a representation on 08.04.2024 under Annexure-11 to the writ petition. Such representation of the Petitioner has been rejected vide order dated 21.10.2024 under Annexure-12 to the writ petition. He further contended that the representation of the Petitioner has been rejected on the ground that the Petitioner is not entitled to the benefit as has been given in the case of ***Narusu Pradhan***, *O.A. No.1189(c)/2006*, pursuant to the direction of the Hon'ble Supreme Court, on the ground that the Petitioner was not a Petitioner in the said case. He further contended that although the Petitioner was not before the Hon'ble Supreme Court, however, the principle decided in the said case should be applicable to the facts of the Petitioner's case. As such, the Petitioner is entitled to the similar benefit as has been extended in the case of the above named Narusu Pradhan. In such view of the matter, learned counsel for the Petitioner submitted that the rejection of the claim of the Petitioner by the Opposite Parties

under Annexure-12 is illegal and arbitrary.

7. Learned counsel for the State on the other hand contended that after disposal of the earlier writ application, the representation of the Petitioner has been duly considered by the Opposite Party No.1 and by passing a detailed and reasoned order on 21.10.2024 under Annexure-12, the representation of the Petitioner has been disposed of. In such view of the matter, learned counsel for the State submitted that the claim of the Petitioner having been disposed of vide order dated 21.10.2024, the same is no more open to be reconsidered by this Court in the present writ petition as such the present writ petition is devoid of merit and is liable to be dismissed at the threshold.

8. On perusal of the order dated 21.10.2024 under Annexure-12 to the writ petition, this Court found that in the 7th paragraph of the order, the case of the Petitioner has been discussed and it appears that the Opposite Parties have not disputed the factual background of the case, particularly with regard to the date of joining of the Petitioner in the work charge establishment on 01.04.1981 and subsequently promoted to Truck Driver while working as such found surplus. Thereafter, they have individually considered the cases of some other employees. Finally, further on perusal of the impugned order, it appears that the Opposite Parties have taken the ground that the orders in the case of Narusu Pradhan (supra) and in the case of ***State of Odisha v. Pitambar Sahoo*** in *W.P.(C) No.24041 of 2017* decided on 20.12.2017, were carried out on contest since there was no other alternative, and as such, pursuant to the order passed by the Hon'ble Supreme Court, necessary relief has been granted in their favour. Since the Petitioner was not to a party to the aforesaid litigation, he is not entitled similar benefits as have been granted to the above noted

persons. However, nowhere in the impugned rejection order have they stated that the Petitioner does not stand in a similar footing to Narusu Pradhan or Pitambar Sahoo, on the factual aspects involved in both the cases.

9. On a critical analysis of the impugned rejection order dated 21.10.2024, this Court observed that the cases of the individual persons have been taken note of without disputing the factual aspects involved in one such case of the present writ petition, however, at the end of that order the relief has been denied to the Petitioner only on the ground that the Petitioner was not a party to the litigation involved in the case of Narusu Pradhan and Pitambar Sahoo. Since a benefit has been given to the similarly situated persons, the case of the Petitioner should have been considered by the Opposite Parties by applying the principles enshrined under Articles 14 & 16 of the Constitution of India. Considering the principles under Articles 14 & 16 of the Constitution of India, this Court is of the view that it is not open to the Opposite Parties to take different stand to the one taken in the case of a similarly situated employees. In such view of the matter, the impugned order dated 21.10.2024under Annexure-12 to the writ petition is hereby quashed. Further, the matter is remanded back to the Opposite Party No.1 to reconsider the case of the Petitioner in the light of the judgment in Narusu Pradhan's case as well as in Pitambar Sahoo's case. Further, it is directed that in the event it is found that the factual foundation involved in the present case, as has been admitted in the impugned order, are identical to the one involved in the case of Narusu Pradhan and Pitambar Sahoo, then similar benefits be extended in favour of the present Petitioner within a period of three months from the date of communication of a certified copy of

today's order.

10. With the aforesaid observations/directions, the writ application stands disposed of.

Issue urgent certified copy of this order as per Rules.

(Aditya Kumar Mohapatra)
Judge

Anil

Signature Not Verified

Digitally Signed
Signed by: ANIL KUMAR SAHOO
Reason: Authentication
Location: High Court of Orissa
Date: 26-Mar-2025 12:30:28