



IN THE HIGH COURT OF ORISSA AT CUTTACK

WA No.277 OF 2024

Principal Secretary to Government *Appellants*
of Odisha, W.R. Department and
others

Represented By Adv. –
Mr. Debaraj Mohanty, AGA

-versus-

Sunakar Swain *Respondent*

Represented By Adv. –
Mr. Satyajit Behera, Advocate

CORAM:

JUSTICE MANASH RANJAN PATHAK

JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

02.09.2025

(Hybrid Mode)

Order No.
02.

I.A. No.9216 of 2023

1. The I.A. has been filed with a prayer for dispensing with filing of certified copy of the order impugned.
2. Since it is an intra Court appeal, the records of the WPC (OAC) No.1763 of 2018 along with original order is available.

The I.A. is favoured and disposed of.

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3. The learned Additional Government Advocate submits that in view of the judgment rendered by the Apex Court in **State of Odisha v. Sudhansu Sekhar Jena**, SLP (Civil) No.2146 of 2024 and subsequent decision Writ Appeal No.17 of 2023 (**State**



of Odisha v. Krushna Chandra Mallick), the matter remains no more res intigra.

4. The learned counsel for the respondent submits that as per the paragraph 23 of the judgment of the learned OAT (since abolished) in O.A. 329 (c)/2002 and the batch of cases, O.A. No.1590 (C)/2003 (**Sunakar Swain v. State of Orissa and others**) was disposed of in terms of paragraph 22 of the said judgment. The paragraphs 22 and 23 of the judgment are reproduced herein:

“22. The affidavit sworn by Tikaram Pujahari indicates that he claimed his seniority above Dasarathi Behera, Narayan Panda, which has been denied by the respondents at para-7 of the counter. Such a claim is not found justified in view of facts as brought out in the counter and discussions at para-10 supra. Applicant Shyam Sundar Ojha, has made a similar claim in the affidavit so also Sunakar Swain, the applicant in O.A. No.1590 (c)/2003. Despite order dates dated 11.1.2016 and 24.02.2016 no instruction has been filed by the respondents. Hence, respondents are directed to examine the above cases of the aforesaid two applicants vis-à-vis other J.C. employees who have been regularized as per the affidavits and pass specific orders and in case the applicants are found to be senior to those in the C.S.L. list regularized, respondents may consider their cases for regularization.

23. As concluded at para 17, prayers in the OAs excepting O.A. No.1590 (c)/2003 in para 22, being devoid of merit stands dismissed. However, respondents are to complete the entire exercise as observed as at para 22 within a period of three months from the date of receipt of copy of this order and intimate their decisions to these applicants immediately thereafter.

With these orders, all the O.As are disposed of.”

5. On perusal of paragraph 22, it is apparent that the learned Tribunal observed the respondent-Sunakar Swain to be a job contract employee as the direction was to the respondent-State “to examine the above cases of the aforesaid two applicants vis-à-vis other J.C. employees”.



It is submitted by Mr. Behera, learned counsel for the respondent that pursuant to the order in O.A. No.1590 (c)/2003 in paragraph 22, case of the respondent was considered by the authorities and by order dated 24.04.2018 his application for re-engagement after being retrenched was rejected. The said order was challenged by filing the original application which was transferred to this Court and renumbered as WPC (OAC) No.1763 of 2018.

6. The learned AGA in response submits that the learned Single Judge has not taken note of the contention as stated in the counter that the respondent was disengaged with effect from 31.03.2003. The determination by the learned Single Judge proceeded in the premise that after 2003 still the respondent was continuing in the job contract establishment.

7. It is submitted by Mr. Behera, learned counsel for the respondent that the respondent was not working in the job contract establishment but working in the “work charged” establishment.

8. The learned Additional Government Advocate to obtain instruction in response to the submission of the learned counsel for the respondent.

9. On consent, list on 15th October, 2025.

(Manash Ranjan Pathak)
Judge

(Mruganka Sekhar Sahoo)
Judge