



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.A. NO. 282 of 2024**

In the matter of an appeal under Article-4 of the Orissa High Court Order, 1948 read with Clause-10 of the Letters Patent of the Patna High Court from the order dated 16.09.2021 passed in WP(C) No.25371 of 2021 by the learned Single Judge of this Court.

**State of Odisha and Others** ..... **Appellants**  
-Versus-

**Pankaj Kumar Palei and Others** ..... **Respondents**

**Advocates appeared in this case:**

For Appellants : Saroj Kumar Jee, AGA

For Respondents : Mr. Niranjana Panda-1, Advocate  
[R-1]

Mr. Manoj Kumar Panda, Advocate  
[R-3]

**CORAM:**

**THE HON'BLE MR. JUSTICE DIXIT KRISHNA SHRIPAD**  
**THE HON'BLE MR. JUSTICE CHITTARANJAN DASH**

**J U D G M E N T**

-----  
**Date of hearing & Judgment :: 03.02.2026**  
-----

***PER DIXIT KRISHNA SHRIPAD, J.***

This Appeal by the State and its functionaries seeks to call in question the learned Single Judge's order dated 16.09.2021 whereby the following relief has been accorded to the Respondent-employee:



*“The opposite parties are directed to regularize the services of the petitioner and grant all consequential service and financial benefits in accordance with law as expeditiously as possible, preferably within a period of two months from the date of communication of this order.”*

2. Learned AGA appearing for the Appellants vehemently argues that relief of the kind could not have been granted to the Respondent-employee in the face of the Odisha Group-C and Group-D Posts (Contractual Appointment) Rules, 2013. He highlights that under Rule 5 of these Rules, the post in question attracts only contractual appointment and therefore, the question of regularization would not figure at all. He tells us that this aspect of the matter has not been dealt with by the learned Single Judge in WP(C) No.19951 of 2020 disposed off on 09.09.2021, on the basis of which the impugned order has been structured and therefore, interference of this Court is eminently warranted. He also draws our attention to the application in I.A. No.785 of 2024 supported by an affidavit praying for condonation of a long delay of 867 days.

3. Learned counsel appearing for the Respondent-employee opposes the Appeal contending that there were sanctioned posts and there were vacancies; the appointment is made by the competent authority and that his client does possess the requisite eligibility & qualification. He also contends that in the absence of lead decision being shown erroneous, by



taking of specific plea in the Memo of Appeal, no fault can be attributed to the said decision.

4. Having heard learned counsel for the parties and having perused the Appeal papers, we decline indulgence in the matter for the following reasons:

4.1. Firstly, the Appeal has been filed after brooking a long delay of 876 days delay; learned counsel for the Respondent-employee is more than justified in opposing the prayer for its condonation on the ground of enormity of longevity of delay and absence of plausible explanation therefor. Therefore, the application in I.A. No.785 of 2024 being devoid of merits is liable to be rejected and accordingly it is.

4.2. Despite rejection of the application of condonation of delay, we undertake examination of the point canvassed at the Bar. It is not in dispute that there were posts and there were vacancies; the competent authority happens to be the Local Body, i.e., Municipality headed by the Executive Officer. Learned Penal counsel appearing for the Municipality very fairly tells us that the Executive Officer is the competent authority to make appointment under the extant Rules. It is not the case of Appellants that the Respondent-employee lacked eligibility & qualification when engagement was done. Obviously, he does not. Therefore, it cannot be gainfully argued that an employee appointed by the competent authority,



after verification of eligibility & qualification, to the existing vacancies against the sanctioned post, is not entitled to have his services regularized. Even State of **Karnataka vs. Umadevi** would not come to aid of Appellants, let alone the other decisions, whereby march of law has taken, namely, **Jaggo v. UOI**, 2024 SCC OnLine SC 3826 & **Sripal v. Nagar Nigam, Gajiabad** decided on 31.01.2025 vide MANU/SC/0139/2025.

4.3. Learned AGA's contention that under Rule 5(2) of 2013 Rules all posts would attract contractual incumbency and therefore regularisation could not have been directed, is bit difficult to countenance. Firstly, such a contention was not taken up before the learned single Judge and no explanation is offered before us as to why such a contention was not taken up, either. Secondly, learned Single Judge has followed the lead decision in WP(C) No.19951 of 2020 decided on 09.09.2021 by another coordinate Bench. That decision is not put in challenge and therefore, it is deemed to have been accepted with no reservation whatsoever. It is also not the case of Appellants that the fact matrix of this case does not match with that of the lead decision. No contra plea emerges from the Appeal Memo. Government being a Model Employer that ordained by the Constitution vide **Bhupendra Nnath Hazarika vs. State of Assam**, 2013 (2) SCC 516, it cannot be selective & choosy within a class of employees.



Even otherwise, the pleadings in the Appeal have not been structured in such a way as would admit the plea that the lead decision itself being bad, could not have been the basis for constructing the impugned order. The exception pointed by the Apex Court, as to when an Appeal challenging an order is laid without calling in question the lead judgment, has not been established before us. Admittedly, the Respondent-employee has put in more than a decade long service, which is spotless. If others have already been granted regularization in terms of lead judgment, there is no reason to show step-motherly attitude qua the Respondent-employee herein.

4.4. We are told by the learned counsel for the Respondent-employee that the lead judgment runs into 51 pages; it was put in challenge in Writ Appeal No.777 of 2021 and other connected Appeals; the Coordinate Bench of this Court vide judgment dated 12.04.2023 repealed the challenge and affirmed the lead judgment of learned Single Judge. Matter did not stop here; it was carried further to the Apex Court in SLP(C) No.17482 of 2023 and that also met the same fate vide order dated 12.11.2025.

In the above circumstances, the Appeal being devoid of merits is liable to be rejected and accordingly it is. The impugned order of the



learned Single Judge shall be implemented within a period of two months.

Web copy of this order to be acted upon by all concerned.

***(Dixit Krishna Shripad)***  
***Judge***

***(Chittaranjan Dash)***  
***Judge***

*Orissa High Court, Cuttack*  
*The 3<sup>rd</sup> day of February, 2026/AKPradhan*