



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.7921 of 2025

Nabaghana Bagarti

.....

Petitioner

Represented By Adv. -
Prashanta Kumar
Nayak

-versus-

1) State Of Odisha

.....

Opposite Parties

2) Secretariat, Director , Ayush
3) Dist Homeopathic Medical Officer,
Bhawanipatna Circle
4) Inspector Of Homeopathic,
Bhawanipatna Circle
5) Homeopathic Medical Officer, Govt
Homeopathic Dispensary

Represented By Adv. –
Mr.D.K.Sahoo, AGA

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

25.03.2025

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel for the State-Opposite Parties. Perused the writ application as well as the documents annexed thereto.
3. The present writ application has been filed by the Petitioner with a prayer for a direction to the Opposite Parties to consider the case of the Petitioner and to regularize his service in the post of Sweeper-cum-Night Watchman in Govt.



Ayurvedic Dispensary, Jamajhari, Kalahandi within a stipulated period of time.

4. Learned counsel for the Petitioner at the outset submitted that the Petitioner was initially engaged as a part-time Sweeper-cum-Night Watchman on 08.10.2024 as per order under Annexure-1 to the writ application. He further submitted that although the initial appointment was temporary in nature, however, the Petitioner continued in service. Learned counsel for the Petitioner further contended that in the process, the Petitioner has been working on temporary basis for more than 20 years. However, the Opposite Parties have not considered the case of the Petitioner for regularization of his service even though there are regular posts that are lying vacant in the Govt. Ayurvedic Dispensary.

5. In the course of his argument, learned counsel for the Petitioner referred to several judgments of the learned Supreme Court as well as of this Court, specifically, ***Laxmidhar Sahoo vs. State of Odisha & ors.*** decided in ***W.P.(C) No.4884 of 2020*** by a Division Bench of this Court on 24.09.2022. By referring to the aforesaid judgment, learned counsel for the Petitioner further submitted in the said case the Petitioner, later continued in service for more than three decades. As such, the learned Division Bench directed regularization of the service of the Petitioner. By drawing attention of this Court to the aforesaid order passed by the learned Division Bench of this Court, learned counsel for the Petitioner submitted that the present petitioner, who was also initially appointed on temporary basis, stands in a similar



footing with the Petitioner in the aforesaid case. He further contended that in the meantime more than three decades have elapsed. However, the service of the Petitioner has not yet been regularized. As a result of which, the Petitioner is not getting his regular scale of pay and other financial benefits as are due and admissible to the regular employees. Learned counsel for the Petitioner contended that such conduct of the Opposite Parties amounts to exploitation of the service of the Petitioner, which has been prohibited under the law. In the course of his argument, learned counsel for the Petitioner also referred to the judgment of the Hon'ble Supreme Court in the case of **Secretary, State of Karnataka –v.- Uma Devi**, reported in **(2006) 4 SCC 1**, in **Jaggo vs. Union of India and Others**, reported in **2024 SCCOnline SC 3826**, in **Sripal and Anr. vs. Nagar Nigam, Gaziabad** (decided on 31st January, 2025) in **Civil Appeal No.8158-8179 of 2024**.

6. At this stage, it is relevant 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 regularize the services of the petitioner therein in view of the Judgments of the Apex Court in **Umadevi** (supra) and **State of Karnataka-v.-M.L. Kesari**, reported in **(2010) 9 SCC 247**. 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. Thereafter, against the order dated 19.01.2016 passed in W.A. No. 407 of 2015, the State as well as the Angul Municipality filed S.L.P. before the Apex Court which was dismissed by a



common order dated 13.05.2016. Consequentially, the State authorities issued an office order dated 06.06.2016 for regularizing the petitioner in the said writ application. Similar relief has already been granted to another employee, Paradeep Municipality, in W.P.(C) No.10100 of 2010 disposed of on 07.07.2017. Therefore, since the petitioner in the present case is in a similar footing to the abovementioned employees, similar benefit should be extended to him by regularizing his service as expeditiously as possible.

7. Learned counsel for the State on the other hand contended that he does not have any instruction with regard to the facts of the present case. Learned counsel for the State further contended that the Petitioner has not approached the Opposite Parties before approaching this Court. On such ground, learned counsel for the State submitted that in the event this Court directs the Opposite Parties to consider the case of the Petitioner in the light of the settled position of law within a stipulated period of time, then she will have no objection to the same.

8. Considering the submissions of learned counsels for the parties, on a careful examination of the background facts as well as materials on record, further keeping in view the fact that the Petitioner has been working uninterruptedly for a period of 20 years, this Court deems it proper to dispose of the present writ application at the stage of admission by directing the Petitioner to approach the Opposite Party Nos.1 & 2 along with a certified copy of this order within a period of two weeks from today. In such eventuality, the Opposite Party Nos.1 & 2



shall consider the case of the Petitioner, and in the event any opportunity of hearing is sought for the same shall also be provided, and dispose of the representation by passing a speaking and reasoned order within a period of eight weeks from the date of receipt of such representation. Additionally, it is needless to mention here that while considering the case of the Petitioner the Opposite Parties shall take into consideration the judgments referred to hereinabove. The final decision so taken be communicated to the Petitioner within two weeks from the date of taking such a decision.

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

10. Issue urgent certified copy of this order as per Rules.

(*Aditya Kumar Mohapatra*)
Judge

RKS

Signature Not Verified

Digitally Signed
Signed by: RAMESH KUMAR
SINGH
Reason: Authentication
Location: High Court of Orissa
Date: 26-Mar-2025 17:22:57