

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.A No.341 of 2022

Principal Secretary, Government of
Odisha, Department of Panchayati
Raj and Drinking Water, Lok Seva
Bhawan, Sachivalaya Marg,
Bhubaneswar

Appellant

Mr. Ashok Ku. Parija,
learned Advocate General with
Mr. M.K. Khuntia, AGA

-versus-

Girish Kumar Parida & Others

Respondents

None

CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN

ORDER (Oral)
21.03.2022

Order No.

- 01.**
1. This matter is taken up by virtual/physical mode.
 2. The present intra-court appeal is directed against an order dated 9th March, 2022 passed by the learned Single Judge in I.A. Nos. 24 & 26 of 2022 filed in disposed of CONTC (CPC) No. 113 of 2019.
 3. It is submitted that intra-court appeal against the interim order dated 9th March, 2022 keeping in view the observation made thereunder on merits of the case, would be maintainable in the light of the authoritative pronouncement of the Hon'ble Supreme Court

in *Midnapore Peoples' Coop. Bank Ltd. and Others vrs. Chunilal Nanda and Others*; (2006) 5 SCC 399:-

“11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarized thus:

I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on merits of a dispute between the parties, will not be in the exercise of “jurisdiction to punish for contempt” and, therefore, not appealable under Section 19 of the CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under Section 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt

proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).”

It is next submitted that admittedly, seven applicants along with other applicants before the Tribunal were engaged as Junior Engineers on contractual basis under a scheme floated by the Central Govt. of India, namely, National Food for Work Programme (NFWP), for whom a special resolution was passed on 19th March, 2018 regarding regularization their services. The terms of the resolution dated 22nd September, 2008 were meant for contractual employees working under the departments of the Govt., which provided for their regularization. The resolution dated 19th March, 2018 was as one time measure and in consonance with the direction of the learned Tribunal passed in para-9 of the judgment dated 3rd May, 2018, for the alleged violation of which the contempt proceedings have been entertained.

It is contended that the Respondents-Applicants after the enforcement of the resolution dated 19th March, 2018, their contractual services were duly regularized in terms of the said notification. However, learned Single Judge by totally misinterpreting the direction of the Tribunal contained in para-9 of the order dated 3rd May, 2018 has erroneously proceeded to direct the regularization of the Respondents-Applicants with retrospective

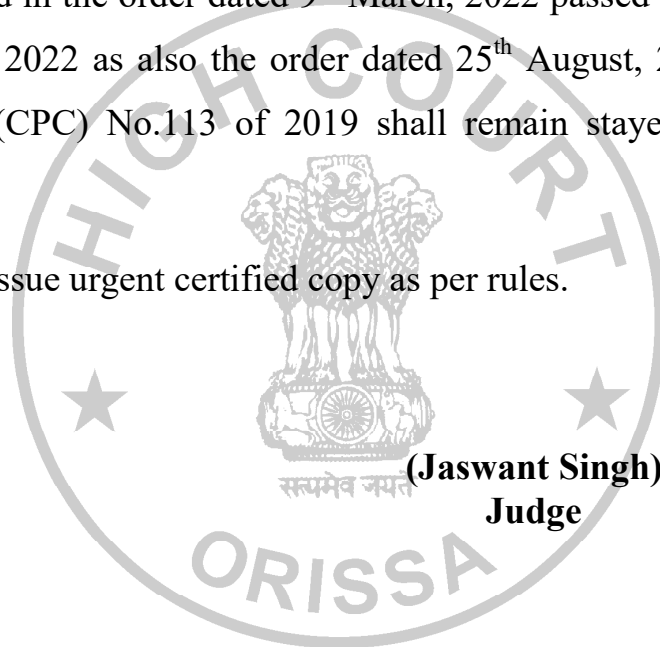
effect in terms of the resolution dated 22nd September, 2008, which on the face of it is not applicable to the Applicants.

4. Issue notice to the Respondent Nos. 1 to 7 by speed post with A.D. Requisites be filed within three working days. In that event notice be issued, fixing a short returnable date.

5. List on 10th May, 2022.

6. As an interim measure, the operation of the direction contained in the order dated 9th March, 2022 passed in I.A. Nos. 24 & 26 of 2022 as also the order dated 25th August, 2021 passed in CONTC(CPC) No.113 of 2019 shall remain stayed till the next date.

Issue urgent certified copy as per rules.



(Jaswant Singh)
Judge

(M.S. Raman)
Judge

Aks

March, 21st, 2022
Cuttack