



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.8444 of 2025

Ramesh Chandra Swain

.....

Petitioner

Represented By Adv. -
Prafulla Kumar
Mohapatra

-versus-

1) State Of Odisha

.....

Opposite Parties

2) Director Of Technical Education
And Training, Odisha, Cuttack

Represented By Adv. –
Mr. D.K.Sahoo, A.G.A.

3) Principal, Government Polytechnic,
Dhenkanal

Mr. S.K.Patra, Standing
Counsel for O.P. No.4

4) Accountant General (a And E) ,
Bbsr,odisha

CORAM:

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

ORDER

26.03.2025

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 Government Advocate for the State and Mr. S.K. Patra, learned Standing Counsel for A.G. Odisha. Perused the Writ Petition 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 therefore, prayed that this Hon'ble Court may graciously be pleased to:

(i) direct the Opp. Parties to sanction pension and pensionary benefits under Orissa Civil Services (Pension)



Rules, 1992 by counting so much of past service rendered 01.11.1988 under State Govt. along with regular service in the light of the principles, decided by the Punjab and others (CWP No.2371 of 2010, decided on 31.08.2010), which has been upheld by the Hon'ble Apex Court in SLP(C) No.23578 of 2012 (SLP(C) CC No. 17901 of 2011), disposed of on 30.07.2012(State of Punjab and others Vs. Harbans Lai) and also in the case of Jeewan Lata Vs. State of Punjab and others, CWP No.10238 of 2017(O&M), decided on 10.05.2019 and Judgment, dt.26.08.2020 of the Hon'ble Apex Court in Civil Appeal No.3984 of 2010; V.Sukumaran Vs. State of Kerala and others and Amarkanta Rai Vs. State of Bihar (2015)5 SC 265 and the decision of this Hon'ble Court in W.P.(C)No. 15853 of 2012, 15856 of 2012 and W.P.(C) No.1471 of 2013, disposed of vide Order, dated 24.04.2013, which has been confirmed by the Hon'ble Supreme Court in SLP(C) No.35462 - 35464 of 2014;

(ii) pass such other order(s) or issue direction(s) as may be deemed fit and proper in the bona fide interest of justice.”

4. It is submitted by the learned counsel for the Petitioner that the Petitioner was initially appointed on 04.11.1988 in the post of Class-IV by the Principal Govt. Polytechnic, Dhenkanal DLR basis. Thereafter, the Petitioner continued to service uninterruptedly. When the Petitioner was continuing, the Notification of the Finance Department dated 15.05.1997 had come into force. Accordingly, learned counsel for the Petitioner submitted that in view of such Notification, the Petitioner should have been brought over to the regular establishment. Thereafter his services should have been regularized as has been provided in the Resolution dated 15.05.1997. However, the same was not done by the authority by deviating the Notification dated 15.05.1997. On 04.09.2012, he was conferred with temporary status and then on 25.10.2024 the petitioner was brought over to the regular establishment. Finally, the Petitioner submitted a representation before the Opposite parties for regularization of his service. Finally on 25.10.2024 the service of the Petitioner was



regularized as per the decision of the Government in the post of Night-watchman (Group-D). Finally, the Petitioner was retired from service on 31.12.2024 on attaining the age of superannuation from the post of Night-watchman. In view of the aforesaid factual background, learned counsel for the Petitioner submits that the Opposite Party No.1 be directed to pay the pensionary benefit to the Petitioner taking into consideration the past service rendered by the Petitioner to make him eligible for pension as the service rendered by him in the department for long period. Accordingly, the Petitioner has approached this Court for a direction to the Opposite Parties to pay the retirement benefit as well as the pensionary benefit as is due and admissible to the Petitioner.

5. Learned Additional Government Advocate, on the other hand, contended that since the Petitioner does not have the qualifying service period, he is not entitled to pensionary benefit. Accordingly, the authorities have not considered the case of the Petitioner for grant of pensionary benefit. However, with regard to payment of retiral dues, learned Additional Government Advocate submitted that the amount as is due and admissible to the Petitioner has already been paid to the Petitioner on his superannuation from service. Accordingly it was submitted that the Writ Petition was devoid of merit and the same be dismissed.

6. Having heard learned counsel for the parties and on careful examination of the background facts of the present case and keeping in view the well settled position of law that once an employee who was working initially as DLR, thereafter brought over to temporary status and finally, his service was regularized shall be considered for payment of pensionary benefit by taking into consideration as so much period of service rendered in temporary status in DLR



establishment to calculate the minimum qualifying period of service for grant of pensionary benefit. Such a proposition of law as has been propounded by this Court has already been accepted by many judgments of this Court. Keeping in view the aforesaid legal position, this Court deems it proper to dispose of the Writ Petition by directing the Opposite Parties to consider the case of the Petitioner in the event the Opposite Parties come to a conclusion that the case of the Petitioner is covered under the judgments referred to hereinabove and the Petitioner is entitled such benefits, then the Opposite Parties shall do well to calculate the minimum qualifying service period of the Petitioner taking the shortfall period from the service period of the Petitioner as temporary status employee/DLR to calculate the minimum qualifying service period, the benefit which is due and admissible to the Petitioner on the basis of his last pay drawn accordingly, the same be sanctioned and disbursed to the Petitioner within a period of two months from the date of communication of the certified copy of this order. In the event, the Petitioner though is getting any other pensionary benefit, the same shall be surrendered before the Government. Any decision taken be communicated to the Petitioner within ten days of taking such decision.

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

Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge

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