IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.643 of 2023

State of Odisha & Others ….. ***Appellants***

Mr. Rabi Narayan Mishra, AGA

Vs.

Nabaghana Swain & Another ….. ***Respondents***

Mr. P.K. Mohapatra, Advocate for Respondent No.1

CORAM:
ACTING CHIEF JUSTICE DR. B.R. SARANGI
MR. JUSTICE MURAHARI SRI RAMAN

ORDER
16.11.2023
W.A. No.643 of 2023 & I.A. No.1651 of 2023

Order No. 02.

This matter is taken up by hybrid mode.

2. This application has been filed for condonation of delay of 230 days in preferring the Writ Appeal.

3. Heard Mr. R.N. Mishra, learned Addl. Government Advocate appearing for the State-Appellants and Mr. P.K. Mohapatra, learned counsel appearing for the Respondent No.1.

4. As it appears, the order impugned has been passed on 11.07.2022 and the writ appeal has been filed on 28.03.2023 and in the meantime more than seven months has passed. Therefore, the appeal suffers from delay and laches. Further, it appears that sufficient cause has not been shown to condone the delay of 230 days in preferring the writ appeal. That apart, no due diligence has been indicated in the petition in preferring the writ appeal. Similar matter has also come up before this Court in O.J.C. No.2147 of 1991, which was decided on 24.03.1992 and this Court has considered the case of Job Contract employees for regularization of service and for pension and pensionary benefits. In O.A. No.3020(C) of 2003 (***Nityananda***

Biswal v. State of Odisha & Others), the Tribunal vide order dated 04.01.2004 also directed that the period of the engagement of the petitioner in job contract establishment should be taken into account as qualifying service and accordingly, his pension and other pensionary benefits be revised and paid to the petitioner therein. The order passed in O.A. No.3020(C) of 2003 was also challenged by the State before this Court in W.P.(C) No.14244 of 2006. This Court vide order dated 09.04.2014 dismissed the writ application preferred by the State against the order passed by the Tribunal. The state also preferred Special Leave to Appeal (C) CC No.12573 of 2015 against the order passed by this Court in W.P.(C) No.14244 of 2006, which was dismissed by the Apex Court vide order dated 13.07.2015.

5. In the above view of the matter, this Court is not inclined to entertain the writ appeal at this belated stage, as the same suffers from delay and laches, in view of the judgment/order of this Court in the case of ***State of Odisha v. Surama Manjari Das*** (W.P.(C) No. 15763 of 2021 dismissed on 16.07.2021), which has been confirmed by the apex Court, vide order dated 05.04.2023 in S.L.P.(C) Diary No. 9259 of 2023.

6. Accordingly, the interlocutory application merits no consideration and the same is hereby dismissed. Consequentially, the writ appeal is also dismissed.

(DR. B.R. SARANGI)
ACTING CHIEF JUSTICE

Signature Not Verified
Digitally Signed
Signed by: LAXMIKANT MOHAPATRA
Designation: Senior Stenographer
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 16-Nov-2023 17:42:51

(M.S. RAMAN)
JUDGE

Laxmikant