



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12049 of 2019

Sushil Kumar Giri

....

Petitioner

Mr. Pratik Dash, Advocate

-Versus-

State of Odisha & others

....

Opposite Parties

Mr. S. Panda, ASC

Mr. M.K. Khuntia, Advocate

(O.P. Nos.2 & 3)

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

20.05.2026

Order No.

08.

1. Heard Mr. Dash, learned counsel for the petitioner and Mr. Khuntia, learned counsel for opposite party Nos.2 & 3 besides Mr. Panda, learned ASC for the State.
2. Instant writ petition is filed by the petitioner seeking a direction to the opposite parties to regularize him against the post of Driver and disburse him the arrear dues declaring the withholding of the regular scale of pay as illegal on the grounds stated therein.
3. Mr. Dash, learned counsel for the petitioner submits that the petitioner joined in the office of the State Social Welfare Board, Odisha, Bhubaneswar (hence called as 'the Board'), namely, opposite party Nos.2 & 3 on 10th December, 2007 for a period of one year on contractual terms extended from time to time. The further submission is that by resolution dated 17th September, 2013 of the G.A. Department in respect



of the Group-‘C’ and ‘D’ employees, it was directed that on completion of six years of contractual service, such service shall be regularized, consequent upon which, the Standing Committee resolved to regularize the services of the petitioner as against the corresponding vacant post. Mr. Dash, learned counsel submits that such a decision by the Standing Committee is dated 13th December, 2013 vide Annexure-2. The further submission is that in pursuance of the above decision, the petitioner was allowed to join as a Driver in the office of the Board in the scale of pay Rs.5200-20200/- and Grade Pay of Rs.1900 with usual D.A. and other allowances as admissible to the State Government employees. The said order of appointment is at Annexure-3. The submission is that the petitioner was allowed annual increment @ 3% of the sum of the pay of Rs.5200/- and Grade pay of Rs.1900/- amounting to Rs.220/- raising his pay from Rs.5200/- to Rs.5420/- and Grade Pay of Rs.1900/- with effect from 1st January, 2015 as per Annexure-4 and the second increment was also given to him thereafter, but suddenly, he was reverted without any office order and presently continuing as a contractual employee. The contention is that the Authority concerned did not provide any opportunity of hearing to the petitioner with notice before any such cancellation of his regular appointment which is, therefore, opposed to the rules of natural justice. The further contention is that the regular appointment having not received approval of the Board, such a decision was taken directing cancellation, but such action of the concerned authority is



outrightly illegal for the principles of natural justice having not been adhered to.

4. In support of the contentions advanced, Mr. Dash, learned counsel cited an order dated 20th March, 2026 of this Court in W.P.(C) No.37692 of 2020 (**Bindu Raj Vrs. State of Odisha & others**). It is submitted that any such action having civil consequences, it would be incumbent upon an Authority to follow the principles of natural justice, but in the case of the petitioner, it has given to go by. Apart from the above, Mr. Dash, learned counsel relied on a decision of the Apex Court in **Dharam Singh and others Vrs. State of U.P. and another AIR 2025 SC (Civil) 2399** to contend that the petitioner after such cancellation is continuing as a contractual Driver and such appointment cannot be permitted for long in view of the decision (supra). With the submissions as above, learned counsel for the petitioner contends that the action of cancellation of regular appointment is grossly illegal and furthermore, the petitioner is required to be appointed to the post of Driver with effect from 14th January, 2014. Lastly, it is submitted that that any decision of the Standing Committee vide Annexure-2, even if received no approval of the Board, it is just an irregularity and therefore, the decision directing cancellation of appointment of the petitioner cannot be sustained in law.

5. Mr. Khuntia, learned counsel appearing for opposite party Nos.2 & 3 submits that the Board is the final authority in view of the Rules of the State Social Welfare Board, Odisha



(hereinafter referred to as 'the Rules'). Referring to Rule 10 thereof, Mr. Khuntia, learned counsel states that the competent authority is to make the appointment and such appointment shall have to be directed by the Board and therefore, the approval having not been received in the manner contemplated in the Rules, the engagement of the petitioner as against the regular vacant post is illegal, hence, the cancellation order. The further submission is that the petitioner did not have valid DL as in response to an advertisement to fill up the post, he failed to submit the same along with other documents at a later point of time. The submission is that the appointment since did not receive approval of the Board in terms of the Rules, there is no illegality committed by the Authority concerned taking a decision to cancel the regular appointment of the petitioner.

6. No doubt, as per the Rules, the Board has the authority to take a decision vis-à-vis regular appointment if any. It is not in denial that the petitioner joined in the contractual post in the year 2007, as made to reveal from Annexure-1. In so far as the resolution of the Standing Committee is concerned, the petitioner was considered suitable against the existing corresponding vacant post. But, in view of the staff position revealed from Annexure-6, it was made to understand that the petitioner's appointment did not have approval of the Board, so the impugned decision. But the fact remains, recommendation was made by the Standing Committee as per Annexure-2. Of course, nothing is on record to show that the Board had approved the regular appointment. In fact, Mr. Dash, learned counsel for the petitioner does not claim that there was any



such approval by the Board. For the petitioner's regular appointment since received no approval of the Board, hence, the regular appointment of the petitioner vide Annexure-3 was cancelled. However, the Court is concerned with the action of the Board for having not provided the petitioner an opportunity of hearing before cancellation of appointment. It is claimed that there has been no order as such by the Board in cancelling the appointment of the petitioner subsequent to Annexure-3. This Court in **Bindu Raj** (supra) held and concluded that any such administrative decision involving civil consequences, rules of natural justice must have to be followed. In the case at hand, this Court finds that the petitioner was not issued with any such notice to show cause before cancellation of regular appointment and therefore, it can well be said that the action of the Board is illegal.

7. In course of hearing, it is submitted that the petitioner is continuing in the contractual post of Driver till today. Though it is submitted that the petitioner failed to submit the DL in response to an advertisement to fill up the post of Driver issued later but it is informed to the Court that in spite of the above, he was allowed to continue as a contractual Driver. Against long continuation of contractual engagement, Mr. Dash, learned counsel for the petitioner cited the decision of **Dharam Singh** (supra), wherein, the Apex Court held and observed in the following words:

“15. It is manifest that the Appellant Workmen continuously rendered their services over several years, sometimes spanning more than a decade. Even if certain muster rolls were not produced in full, the Employer's



failure to furnish such records-despite directions to do so-allows an adverse inference under well-established labour jurisprudence. Indian labour law strongly disfavours perpetual daily-wage or contractual engagements in circumstances where the work is permanent in nature. Morally and legally, workers who fulfil on going municipal requirements year after year cannot be dismissed summarily as dispensable, particularly in the absence of a genuine contractor agreement. At this juncture, it would be appropriate to recall the broader critique of indefinite “temporary” employment practices as done by a recent judgment of this Court in *Jaggo v. Union of India* in the following paragraphs:

“22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers’ rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations. xxx

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- Misuse of “Temporary” Labels: Employees engaged for work that is essential, recurring, and integral to the functioning of an institution



are often labelled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.

- **Arbitrary Termination:** Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.
- **Lack of Career Progression:** Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.
- **Using Outsourcing as a Shield:** Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.
- **Denial of Basic Rights and Benefits:** Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.”

8. The petitioner, as earlier stated, was engaged as a contractual Driver in 2007. The regular appointment was issued



in 2014, but after its cancellation he is continuing once again as a contractual employee of the Board, which means, he is in service since last 19 years, so to say. It is submitted to the Court by Mr. Dash, learned counsel for the petitioner that there is nothing adverse ever reported against the petitioner. Admittedly, the service of the petitioner is long, uninterrupted and without any break. In view of the decision of the Apex Court in **Dharam Singh** (supra) with reference to the case laws in **Jaggo Vrs. Union of India 2024 SCC OnLine SC 3826** and **Shripal and another Vrs. Nagar Nigam, Ghaziabad 2025 SCC OnLine SC 221** held that when the service is perennial and a full-time employment, any such engagement on contractual terms for long is in violation of Articles 14, 16 and 21 of the Constitution of India.

9. Considering the facts pleaded on record and the reply of opposite party Nos.2 & 3 in the counter affidavit, this Court reached at the conclusion that the decision to cancel the regular appointment vis-à-vis the petitioner is outrightly illegal and at the same time, the petitioner is in contractual post of Driver was against a corresponding vacant post which was available by then hence to be appointed as a regular Driver and in absence of any such post at present, a supernumerary post shall have to be created to accommodate him. This Court is alive to the settled law laid down by the Apex Court in **Dharam Singh** (supra) reiterating the principles enunciated in **Jaggo** and **Shripal** (supra) by the Apex Court and hence, is inclined to direct regular appointment in favour of the petitioner to be carried out in the manner discussed herein above.



10. Accordingly, it is ordered.

11. In the result, the writ petition stands allowed with the direction to opposite party Nos.2 & 3 to appoint the petitioner as against the regular post of Driver, if necessary to create a supernumerary post and to issue a formal order of appointment with effect from 14th January, 2014 and simultaneously to consider grant of all such service and financial benefits as admissible to him upon regularization of his service and to conclude the entire exercise at the earliest and preferably within a period of eight weeks from the date of receipt of a copy of this order.

12. Issue urgent certified copy as per rules.

(R.K. Pattanaik)
Judge