



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 15824 of 2018

**Mahendra Tandi and
others**

....

Petitioners

Mr. H.S. Mishra, Advocate

-versus-

**State of Odisha and
others**

....

Opposite Parties

Mr. R. Pradhan, ASC

For O.Ps.1, 2 & 6

Mr. B. Moharana,

Sr. Panel Counsel, UOI

For O.Ps.3 to 5

**CORAM:
JUSTICE M.S.SAHOO**

ORDER
16.05.2025
Hybrid Mode

Order No.
20.

Though by order dated 02.05.2025 the matter was adjourned at the instance of the learned counsel for petitioners, to be taken up on 3.7.2025, the matter is listed today on being mentioned by the learned counsel for the petitioners for the I.A. to be considered.

I.A. No. 8350 of 2025

2. I.A. has been filed by the petitioners in the writ petition supported by affidavit dated 12.05.2025. The prayer made in the I.A. is to stay operation of notification



No.1002/Tenure/DBW/ PER(RC)OFBL/2025 annexed to the I.A. marked as Annexure-10.

3. Learned counsel for petitioners refers to the said notification which provides that off-line applications are invited from the citizens of India fulfilling the requisite qualification/criteria against the vacancies of Tenure Based DBW ('Danger Building Worker') on contract basis to work in Ordnance Factory, Badmal, Odisha in the district of Bolangir, Odisha. The engagement on contract basis initially is to be for a period of one year which may be extended up to a maximum period of four years from the date of engagement (including initial period) based on factory requirement and individual's performance.

It is submitted that the petitioners in the writ petition and the I.A. are residents of Bolangir district. They had applied earlier to work as 'Danger Building Worker' (DBW). They are aggrieved by the condition that everyone can apply to be engaged. Their contention is engagement of the contractual workers as Tenure Based DBW should be confined to the persons who are residents of Bolangir district.



4. Learned counsel for the petitioners submits that interim order should be passed by the Court directing no appointment to be made pursuant to Annexure-10. It is submitted that the petitioners have crossed the age of appointment as prescribed in Annexure-10 and many are approaching age of superannuation. It is submitted that petitioners had applied to be engaged in the Ordnance factory to work as Danger Building Worker. The nature of work is labour intensive. In the select list their names find place against particular serial number. In the writ petition respective serial numbers of petitioners in the select list issued by the opposite party-authorities has been mentioned against name of each of the petitioner. It is submitted that the advertisement annexed to the I.A. marked as Annexure-10 is for selection of the 'Danger Building Worker' though for one year tenure on the Contract Basis.

Learned counsel for the petitioners submits that unless appointments pursuant to the advertisement are stayed by this Court, nothing would remain in the writ petition to be adjudicated.



5. It is submitted that the petitioners have now become age barred as the prescribed age limit at paragraph-4 of the Annexure-10 is 18 to 40 years on the last date of receipt of application with age relaxation as admissible to be given to the SC/ST/OBC/NCL & Ex-Servicemen.

6. Issue notice in the I.A. along with this order.

Since Mr. Moharana, learned Sr. Panel Counsel has already appeared for the opp. party-Union of India and management of Ordnance factory, no further notice be issued. The opposite party shall file their counter.

7. Mr. Moharana, learned senior panel counsel appearing for the opposite party submits that he has received copy of the I.A. and may be accommodated to obtain instruction.

Mr. Moharana makes his preliminary submissions that the employment in the ordnance factory at Badmal cannot be confined to persons belonging to the local area. Being kept open for all citizens in India is the correct procedure adopted.



8. Learned counsel Mr. Moharana appearing for the opposite parties was specifically asked whether the petitioners were selected/petitioners' names find place in the select list of applicants for Danger Building Worker as stated in the writ petition. Mr. Moharana submits that a list of 463 persons was prepared in the year 1997. Out of the said list 172 persons have been given appointment. The rest of the persons in the list from sl.nos.173 to 463, have not been given appointment.

Mr. Moharana also clarifies that the petitioners' claim is correct only to the extent that they have participated in the selection process and their names find place in the list prepared on the basis of interview and written test conducted by the opposite parties. But petitioners can not claim engagement as a matter of right.

9. On being asked whether the petitioners can also be given employment as Tenure Based DBW (Danger Building Worker) on contract basis for a year. Mr Moharana submits on instruction that they cannot be given contractual appointment for one year as DBW.



10. In considered opinion of this Court since the Court is not in a position to determine whether for an important establishment like Ordnance Factory where ammunitions for various artilleries are manufactured if the recruitment for contractual Tenure Based DBW (Danger Building Worker) is stayed that could impact production of any such ammunition. Therefore prayer for stay of advertisement and stay of recruitment pursuant thereto is rejected.

11. However, in view of stand taken by the opposite parties, it is also directed that the petitioners shall also be considered for the said of Tenure Based DBW (Danger Building Worker) on contract basis for one year. If they are inclined to work as such, the petitioners shall move the opposite parties by making application.

Further, since Annexure-10 is very clear to the extent that the vacancies are tenure based and only for one year to be extended at the instance of the employer and the petition is pending since 2018 much before advertisement, the rights of the petitioners if any, shall be protected as far as prayer made in the writ petition is



concerned. However, they shall not claim any equity on the basis of their application for contractual engagement.

12. It is further directed that if the petitioners in the writ petition apply afresh pursuant to Annexue-10, in view of the long history of litigation and pendency of the writ petition, if the applicants are age barred, but otherwise physically capable and medically fit, their applications for contractual engagement for one year as Tenure Based DBW shall be considered grating them age relaxation.

Considering nature of work that is indicated in the advertisement, the petitioners have to adhere to and satisfy the physical standards and medical fitness as would be prescribed for other candidates.

13. Mr. Moharana submits that the Annexure-10 has been forwarded to the Employment Exchange as per the Rules which is to be published and advertised by the Employment Exchange. He refers to para-7 of Annexure-10 : "Closing Date for Receipt of Application : 30 days from the date of publication of advertisement in Employment News/Newspaper." Mr. Moharana further submits that the process of advertisement through the



Employment Exchange has not yet happened and it may happen in future.

Mr. Mishra submits that as per his instructions the advertisement has been published.

14. In view of such submissions it is also directed that if any such advertisement is made, petitioners if they are so advised can make application to be considered in terms of the above order for Tenure Based DBW (Danger Building Worker) engagement on contract basis for one year.

15. List on 3.7.2025 as directed earlier.

(M.S.Sahoo)
Judge

dutta