



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17398 of 2024

**Dr. Pramod Kumar
Mohanty**

....

Petitioner
Mr. T.K. Mishra, Adv.

-versus-

**Commissioner-cum-
Secretary, Health and
Family Welfare
Department, BBSR and
Others**

....

Opp. Parties
Mr. A. Tripathy, AGA

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
27.02.2026**

Order No

18. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard learned counsel for the parties.

3. Pursuant to order dated 24.02.2026, learned Addl. Govt. Advocate produced the instruction provided by the department vide letter dated 25.02.2026. The same be kept in record.

4. The present Writ Petition has been filed *inter alia* with the following prayer: -

“Under the aforesaid facts and circumstances of the case it is, therefore, prayed that your lordship may kindly be graciously pleased to admit the writ petition, issue rule NISI calling upon the opp. Parties as to why the order dated 28.09.2022 and order



dated 01.07.2024 shall not be quashed and as to why the petitioner shall not be reverted to OMHS Cadre and as to why he shall not be entitled to get the promotion and promotional benefits under DACP Scheme at par his batch mate those who have appointed vide notification dated 25.06.1997 if the opp. Parties fails to show cause or show in sufficient cause then the rule NISI be made absolute;

And further be pleased to revert the petitioner from Asst. Professor, Urology (Adhoc) to OMHS Cadre and to give promotion at par his batch mates those who have appointed vide order dated 25.06.1997 with all financial and consequential benefits;

And further be pleased to pass any other appropriate writ/writ(s), direction/direction(s) as would be deem fit and proper.”

5. It is contended that petitioner on being duly selected was appointed as an Assistant Surgeon on 24.11.1995. Subsequently, on the recommendation of the OPSC and Notification issued by the department of Health and Family Welfare on 25.06.1997, petitioner was appointed as an Assistant Surgeon on probation and posted to PHC(N), Kandel in the district of Kalahandi on 25.06.1997.

5.1. Learned counsel for the petitioner contended that while so continuing petitioner was relieved to undergo Post Graduation in General Surgery at MKCG Medical College and Hospital, Berhampur on 07.11.2000. On such completion of Post Graduation, petitioner was again posted as Asst. Surgeon at Taluk Hospital, Kesinga on 06.11.2003.

5.2. It is contended that petitioner while so continuing, he was relieved to undergo MCh Course at PGIMER, Chandigarh and petitioner accordingly took



admission to prosecute MCh(Urology) in PGIMER, Chandigarh on 07.07.2009. On successful completion of the MCh Course with Super Specialist Subject Urology, petitioner joined at CHC, Biridi in the district of Jagatsinghpur on 10.08.2012. But while being so posted at Biridi in the district of Jagatsinghpur, he was deployed to work in the department of Urology in SCB Medical College and Hospital, Cuttack vide order of the Govt. in the Health and Family Welfare Department dated 10.08.2012 under Annexure-9 series.

5.3. Pursuant to such order dated 10.08.2012 and consequential orders issued on 17.08.2012, petitioner was relieved from Biridi, CHC in order to enable him to join in the department of Urology, SCB Medical College and Hospital, Cuttack on 17.08.2012.

5.4. Learned counsel for the petitioner contended that while so continuing on deployment in the department of Urology in SCB Medical College and Hospital, Cuttack and pursuant to the Notification issued by the DMET on 18.05.2013 to fill up the post of Assistant Professor on adhoc basis for a period of 1(one) year, petitioner made his application as against the post of Asst. Professor (Urology).

5.5. In the aforesaid selection process, petitioner though was not selected, but the selection committee recommended the case of the petitioner for his



appointment as an adhoc Assistant Professor against SC and ST vacancy. While so continuing, vide order dated 04.07.2013 under Annexure-10, petitioner though was posted as a Super Specialist in CHC, Raghunathpur, but deployed to work in SCB Medical College and Hospital, Cuttack in the department of Urology.

5.6. Pursuant to such order passed on 04.07.2013, vide order dated 09.07.2013 under Annexure-11 series, petitioner was allowed to work on deployment in SCB Medical College and Hospital, Cuttack in the department of Urology and was relieved accordingly vide order dated 11.07.2013. It is contended that after being so relieved from CHC, Biridi and thereafter from CHC, Raghunathpur, vide order dated 23.07.2013 under Annexure-11 series, petitioner was appointed temporarily as an Assistant Professor on adhoc basis vide Notification dated 12.08.2013 of the Govt in the department of Health and Family Welfare under Annexure-12.

5.7. Pursuant to such order passed on 12.08.2013, petitioner was again relieved by the CDM & PHO, Jagatsinghpur vide letter dated 14.08.2013 under Annexure-13 in order to enable the petitioner to work on such deployment in SCB Medical College and Hospital, Cuttack as an Asst. Professor (Adhoc) in the department of Urology.



5.8. Learned counsel for the petitioner contended that even though petitioner was allowed to continue on deployment as an Assistant Professor on adhoc basis in the department of Urology in SCB Medical College and Hospital, Cuttack, but on the ground that he is no more an employee coming under OMHS cadre which is his parent cadre, his representation to extend the benefit of DACP was rejected vide order dated 28.09.2022 under Annexure-15.

5.9. It is however contended that vide letter dated 02.7.2022 under Annexure-16, while considering the representation so filed by the petitioner, it was indicated that petitioner's tenure at SCB Medical College and Hospital, Cuttack may be treated as deputation from OMHS cadre to SCB Medical College and Hospital, Cuttack and his pay is to be regulated as per the terms and conditions prescribed for such continuance on deputation to foreign service.

5.10. It is contended that even though petitioner was allowed to continue as an Assistant Professor on adhoc basis in the department of Urology, SCB Medical College and Hospital, Cuttack w.e.f. the year 2013 and as per notification dtd.12.08.2013 under Annexure-12, but he was never regularized as against the said post and accordingly was not extended with the benefit of promotion to the next higher rank. Petitioner accordingly made a grievance before Opp.



Party No.1 on 08.01.2024 under Annexure-17 with a prayer to repatriate him to his original OMHS Cadre.

5.11. But such prayer of the petitioner was rejected vide the impugned order dated 01.07.2024 under Annexure-18, inter alia on the ground that petitioner is no more under OMHS cadre and he is neither entitled to get any promotional/financial benefit under DACP Scheme, so applicable for such OMHS cadre employees, nor he can be reverted to OMHS cadre, at this belated stage after lapse of 11 years.

5.12. While assailing the impugned order dated 01.07.2024, learned counsel for the petitioner contended that petitioner originally belongs to OMHS cadre and he was deployed to work as an Assistant Professor in the department of Urology, SCB Medical College and Hospital, Cuttack initially vide order dated 01.08.2012 under Annexure-9 series and subsequently as per notification dtd.12.08.2013 under Annexure-12. Even though petitioner could not qualify for the post of Assistant Professor pursuant to the selection process initiated by the Govt. on 18.05.2013, but taking into account the requirement of the department, petitioner was allowed to continue as an Assistant Professor on adhoc basis against the reserved vacancy.



5.13. Not only that after completion of his MCh course in PGIMER, Chandigarh, though he was posted to CHC, Biridi and CHC, Raghunathpur vide different orders, but he was allowed to continue on such deployment in SCB Medical College and Hospital, Cuttack in the Department of Urology as an Assistant Professor on adhoc basis. It is further contended that petitioner was not allowed the benefit of DACP so applicable for employees continuing under OMHS cadre and such a claim was rejected vide order dated 28.09.2022 under Annexure-15. However, it was indicated that petitioner is no more under OMHS Cadre and accordingly not entitled to get the benefit of DACP Scheme. But in the previous order issued on 02.07.2022 under Annexure-16, it was indicated that petitioner be treated as on deputation from OMHS Cadre to SCB Medical College and Hospital, Cuttack.

5.14. Learned counsel for the petitioner contended that since petitioner originally belongs to OMHS cadre and he is allowed to continue on deployment in SCB Medical College and Hospital, Cuttack, in view of the stand taken by the Govt.-Opp. Party No.1 in its order dated 02.07.2022 under Annexure-16, rejection of the petitioner's claim for his reversion to OMHS Cadre, vide the impugned order dated 01.07.2024 under Annexure-18 is not sustainable in the eye of law.



5.15. It is also contended that even though petitioner is continuing because of the requirement of the Govt. as an Assistant Professor on adhoc basis in the department of Urology in SCB Medical College and Hospital, Cuttack since 2013, but neither petitioner is being regularized as against the said post coming under OMES cadre nor is being reverted to his parent cadre. It is accordingly contended that with quashing of the impugned order, Opp. Party No.1 be directed to revert the petitioner to OMHS Cadre.

6. Learned Addl. Govt. Advocate while supporting the impugned order contended that since petitioner was appointed as an Assistant Professor on adhoc basis in the department of Urology in SCB Medical College and Hospital, Cuttack which comes under OMES Cadre, prayer of the petitioner to revert him to OMHS cadre cannot be considered. Stand taken in Para-10 to 12 of the counter affidavit reads as follows:-

“10. That, in reply to the averment made by the petitioner in paragraphs 12 & 13 of the writ petition, it is humbly submitted that, subsequently, he was declared as Specialist in Surgery and posted to CHC Raghunthpur, Jagatsinghpur & deployed to work in Dept. of Urology, SCB MCH, Cuttack vide this Department Notification no. 19645/11 dated 04.07.2013(Annexure-10 of the writ petition). Accordingly he joined at CHC Raghunthpur and worked at SCB MCH, Cuttack on deployment basis.

11. That, in reply to the averment made by the petitioner in paragraph 14 of the writ petition, it is humbly submitted that, while continuing as such under OMHS Cadre, considering his representation in pursuance of order dated 04.07.2013 of Hon'ble High Court in WP(C) 13721/2013 and Supreme Court order in Civil Appeal No.4500 of 2002, Dr. Pramod Kumar



Mohanty was given appointment as Asst. prof on Adhoc basis in Urology Department of SCB MCH Cuttack under Odisha Medical fresh Education Services (OMES) Cadre with the scale of pay of Rs. 15,600/-39,100/- + AGP Rs. 8000/- with usual DA and other allowances vide this Department Notification no. 23022/H dated 12.08.2013 (Annexure-12 of the writ petition) with the condition that, the selected in service candidates will get relieved from their former post/ parent Cadre.

12. That, in reply to the averment made by the petitioner in paragraph 15 & 16 of the writ petition, it is humbly submitted that, on receipt of the same, Dr. Mohanty preferred to accept the above fresh appointment under OMES Cadre inspite of knowing that it is an Ad-hoc appointment, quit his services under OMHS Cadre and after getting relieved from his former post under OMHS Cadre from CHC Raghunthpur, Jagatsinghpur vide their Order No.1046 dated 15.08.2013 (Annexure-14 of the writ petition), he joined as Asst. prof on Adhoc basis in Urology Department of SCB MCH Cuttack on 16.08.2013.”

7. Considering the stand taken in the writ petition vis-a-vis in the counter affidavit, this Court vide order dated 24.02.2026, asked the learned Addl. Govt. Advocate to obtain instruction as to whether petitioner can be regularized as an Assistant Professor in the department of Urology in SCB Medical College and Hospital, Cuttack and can be extended with the benefit of promotion to the next higher rank. Basing on the instruction so provided in Court today, it is contended that since petitioner has entered into service under OMES cadre, without facing relevant recruitment process initially through OPSC, petitioner cannot be regularized as against the post of Assistant Professor. Stand taken in the instruction dated 25.02.2026 reads as follows:-

“In inviting a reference to the subject mentioned above, I am furnishing herewith the necessary instruction



in compliance to the direction of the Hon'ble High Court vide their Order No. 17 dated 24.02.2026.

As regard regularisation of his service under Odisha Medical Education Service (OMES) Cadre in SCB Medical College, it is humbly submitted that, in order to enter into Odisha Medical Education Service (OMES) Cadre, as per Cadre rule one has to come through regular process of recruitment through Odisha Public Service Commission (OPSC). Hence, in the instant case unless he comes through regular process of recruitment into OMES Cadre through Odisha Public Service Commission (OPSC) he can not be regularised in SCB Medical College & Hospital.”

8. Having heard learned counsel for the parties and considering the submission made, this Court finds that petitioner vide order dated 24.11.1995 under Annexure-1 was posted as an Assistant Surgeon and placed in Nakarundi PHC in the district of Kalahandi. It is not disputed that petitioner's original appointment was against OMHS Cadre. While so continuing under OMHS cadre, petitioner not only completed his Post Graduation from MKCG Medical College and Hospital, Berhampur but also the Super Specialist course i.e. MCh(Urology) at PGIMER, Chandigarh.

8.1. After such completion of the MCh course, petitioner though was posted at CHC Biridi vide order dated 10.08.2012 under Annexure-9, but he was allowed to continue on deployment in SCB Medical College and Hospital, Cuttack, in the department of Urology. Basing on the notification issued by the Govt.-O.P. No.2 on 18.05.2013, petitioner though participated in the selection process for the post of Assistant Professor on adhoc basis but he could not



qualify. However, petitioner was selected and appointed against a reserved vacancy and was allowed to continue as an adhoc Assistant Professor in the department of Urology in SCB Medical College and Hospital, Cuttack, vide notification dated 12.08.2013 under Annexure-12

8.2. Even though petitioner continued as an adhoc Assistant Professor in the department of Urology w.e.f. 2013 but he was never regularized as against the said post, nor by treating him as coming under OMHS Cadre, he was extended with the benefit of DACP. Because of such difficulty faced by the petitioner when he made a request to revert him to OMHS Cadre, while rejecting such claim vide order dated 28.09.2022 under Annexure-15, though it was indicated that petitioner is no more under OMHS cadre and accordingly not eligible to get the benefit under DACP Scheme, but in the previous order passed on 02.07.2022 under Annexure-10, it was held that petitioner since is on deputation from OMHS cadre to SCB Medical College and Hospital, Cuttack, he cannot be regularized in his services on being deputed to Foreign Service.

8.3. Basing on the instruction so provided to Court today, it is also admitted that petitioner cannot be regularized in OMES Cadre, unless he was duly selected by facing due recruitment process conducted by OPSC.



8.4. Considering the stand taken in the Writ Petition and the counter affidavit as well as instruction so provided, this Court is of the view that since petitioner is continuing on deployment in SCB Medical College and Hospital, Cuttack w.e.f. 2012 and as per the admission made by the State that he cannot be regularized, this Court while quashing the impugned order dated 01.07.2024 under Annexure-18, directs Opp. Party No.1 to revert the petitioner to his original cadre i.e. OMHS with passing of an appropriate order within a period of 4 (four) weeks from the date of receipt of this order and extend the benefits as due and admissible.

9. The Writ Petition stands disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Basudev