



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.2753 of 2024

In the matter of an appeal under Section 10 of letter Patent of Patna High Court read with Article 4 of Orissa High Court Order, 1948 from the order dated 06.09.2024 passed by learned Single Judge in W.P.(C) No.8559 of 2019.

Prafulla Kumar Sahoo

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Appellant

-versus-

**1. Grid Corporation of Odisha
Ltd. (GRIDCO), Bhubaneswar**

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Respondents

**2. Odisha Power Transmission
Corporation Ltd.(OPTCL)**

3. Director (HRD), OPTCL

**4. Mr. Bairagi Charan Swain, at
present working as Senior Private
Secretary to Director (HRD),
OPTCL**

**5. Mr. Bhaskar Chandra Pal,
Retired Senior Private Secretary**

**6. Mr. Amaresh Kumar
Mohapatra, Retired Senior
Private Secretary**

**7. Mr. Trilochan Behera, Retired
Senior Private Secretary**

**8. Smt. Urmila Pati, Retired
Personal Assistant**

**9. Mr. Pradipta Kumar Mishra, at
present working as Personal
Assistant to Senior General
Manager(CPC), OPTCL**



Advocates Appeared in this case

For Petitioner - Dr. J.K. Lenka, Mr. P.K Sahoo, Mr. B.K. Behera, Mr. P.K. Behera & Mr. L. Tripathy, Advocates

For Opp. Parties - Mr. A.K. Nath, Advocate
(for Respondent No.1)

Mr. B.K. Dash, Advocate
(for Respondent No.2 & 3)

Mr. B.P. Das, Advocate
(for Respondent No.9)

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CORAM :

HON'BLE MR. JUSTICE KRISHNA SHRIPAD DIXIT
HON'BLE MR. JUSTICE CHITTARANJAN DASH

Date of Hearing & Judgment : 16.03.2026

PER KRISHNA S. DIXIT, J.

This Intra-Court Appeal by a retired employee seeks to call in question a learned Single Judge's order dated 06.09.2024, whereby Appellant's W.P.(C) No.8559 of 2019 having been treated, the relief is moulded as under:

"V. CONCLUSION:

12. In view of the foregoing, this Court finds no merit in the Petitioner's claim for retrospective promotion and is, therefore, unable to entertain it.

13. Accordingly, this Writ Petition is dismissed as not maintainable.

14. Interim order, if any, passed earlier stands vacated."



2. Learned counsel appearing for the Appellant submits and it is borne out by record that, Appellant was upon selection appointed as a Junior Stenographer on temporary basis w.e.f. 10.07.1991. The Electricity Reforms Act, 1995 having been passed by the Parliament, GRIDCO came to be formed and that the Appellant was transferred to the same on 23.07.1996; subsequently, the private Respondents came to be appointed in April 1998. Appellant and some others had filed O.A. No.1430 of 1996 before the Odisha Administrative Tribunal (OAT) in effect seeking their repatriation to the Government for their own reason. However, on some assurance being given by the Government, the said OA came to be withdrawn on 13.12.2002. Appellant's services eventually came to be absorbed in the GRIDCO vide order dated 05.08.2003 with retrospective effect from 01.04.1997. Therefore, the counsel contends that the Appellant obviously being the senior to the private Respondents herein, the ranking in the seniority as also the consequential promotion on that basis ought to have been conferred on his client. He tells the Court, this aspect of the matter having not been properly dealt with, there is error apparent on the face of the impugned order warranting interference of this Court.



3. Learned Senior Counsel-Mr. Dash appearing for the OPTCL and learned Panel Counsel-Mr. Nath appearing for the GRIDCO, resist the appeal making submission in justification of the impugned order and the reasons on which it has been structured. Learned Senior Counsel specifically points out that the Appellant too had participated in the Selection Process/ Interview along with the private Respondents and that Appellant was not selected. Therefore, the reasoning of the learned Single Judge is inexplicable. So contending, they seek dismissal of the appeal.

4. Having heard learned counsel for the parties and having perused the appeal papers, we are inclined to grant indulgence in the matter as under and for the following reasons:

4.1. There is no dispute as to entry of the Appellant to the Government service w.e.f. 11.07.1991 on temporary basis as Junior Stenographer, of course subject to passing certain examination during the period of probation, which he did eventually. He along with others was deputed to GRIDCO w.e.f. 23.07.1996. His services along with the companions came to be absorbed in the GRIDCO vide order dated 05.08.2003 with retrospective effect from 01.04.1997. There is unanimity of opinion amongst the jurists of Service Law that absorption is also a mode of appointment and it is



open to the absorber to make such appointment, subject to such terms & conditions, as he may deem fit unless there are rules to the contrary. It is essential to know that absorption as such is not put in challenge.

4.2. There is force in the submission of learned counsel appearing for the Appellant that as on the date his client along with others was absorbed under the service of GRIDCO, the private Respondents were not born in the cadre, inasmuch as their appointment was only in April 1998, i.e. post transfer of the Appellant in July 1996. The Apex Court in ***S.I. Rooplal v. Lt. Governor through Chief Secretary***, AIR 2000 SC 594 has observed as under:

“...It is clear ... that any Rule, Regulation or Executive Instruction which has the effect of taking away the service rendered by a deputationist in an equivalent cadre in the parent department while counting his seniority in the deputed post would be violative of Articles 14 and 16 of the Constitution. Hence, liable to be struck down...”

The absorption order which gave effect retrospectively, accords with the jurisprudence of this ruling. This aspect having not been duly adverted to by the learned Single Judge, there is error apparent on the face of impugned order, as rightly argued by Appellant’s counsel.

4.3. The vehement submission of learned Senior Counsel-Mr. Das appearing for Respondent Nos.2 & 3 that the Appellant having staked his claim for selection along with private Respondents in



April 1998 did not farewell, and therefore, now he cannot turn around to gain higher seniority ranking in the Seniority List *qua* those private employees, is bit difficult to countenance. The order dated 23.07.1996 transferring the Appellant and others to the GRIDCO was not put in challenge by anyone. Added, the order dated 05.08.2003, whereby absorption of these transferees happened with retrospective effect from 01.04.1997, has passed by these Respondents only. The Apex Court has held that an opponent cannot challenge his own order in the proceedings launched by the employees. Sustaining contention of the kind would run counter to this philosophy. Whatever ranking in the Seniority List and the consequent promotion ought to have been accorded to the Appellant herein treating him as having been in service w.e.f. 01.04.1997 *qua* other similarly circumstanced employees. The fact that Appellant has demitted office on 31.01.2025 on attaining the age of superannuation would not silent his rights and therefore, all that benefit needs to be given to him in the light of Apex Court decision in ***Rajasthan State Electricity Board v. Mohan Lal***, AIR 1967 SC 1857.

In the above circumstances, this appeal succeeds; there shall be interference with the learned Single Judge's order to the effect that the Appellant shall be treated as being senior to



the private Respondents herein and on that basis, he shall be conferred the promotion, which his immediate juniors have been granted, with all consequential benefits. Time for compliance is three months. Costs made easy.

Web copy of judgment to be acted upon by all concerned.

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge

Orissa High Court, Cuttack
The 16th day of March 2026 /Madhusmita

Signature Not Verified

Digitally Signed
Signed by: MADHUSMITA MALLICK
Designation: Jr. Stenographer
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 25-Mar-2026 14:02:19

