



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.35931 of 2020

Chhabi Kishore Dehury

.... Petitioner

Mr. J. Biswal, Advocate

-Versus-

State of Odisha & others

.... Opposite Parties

Ms. B.K. Sahu, AGA

Mr. B. P. Tripathy, Advocate for O.P. No.3

CORAM:

MR. JUSTICE R.K. PATTANAIK

ORDER

20.03.2026

Order

No.

14.

1. Heard Mr. Biswal, learned counsel for the petitioner and Ms. Sahu, learned AGA for the State besides learned counsel for opposite party No.3.

2. Instant writ petition is filed by the petitioner challenging the impugned order dated 30th July, 2019 as at Annexure-9 of opposite party No.1 and the decision rejecting his candidature for induction into the Odisha Radiographer Service vide proceeding dated 15th May, 2015 and order dated 18th November, 2020 i.e. Annexure-8 followed by a direction for his regularization on the grounds stated.

3. As pleaded on record, the petitioner was engaged as X-Ray Technician (contractual under NRHM) in Cath Lab, Capital Hospital, Bhubaneswar vide Annexure-2 and his service was extended from time to time vide Annexures-3 and 4



and in the meantime, the Odisha Radiographer Service (Methods of Recruitment and Conditions of Service) Rules, 2019 (hereinafter referred to as 'the Rules') arrived but was modified in the year 2019. Referring to a copy of the notification dated 8th March, 2018 i.e. Annexure-5. Mr. Biswal, learned counsel for the petitioner submits that as per Rule 4(A)(1) of the Rules, it is stipulated that on the date of commencement of the Rules, all the contractual Radiographers, who have been duly recruited by the Societies/Schemes and completed contractual service satisfactorily shall be deemed to be regular Government employees as a onetime measure subject to fulfilment of eligible criteria as prescribed in Rule 5 and since it is fulfilled, the petitioner is eligible for regularization in terms thereof. Referring to Rule 5 of the Rules, the further submission is that the modalities therein are satisfied by the petitioner, hence, his service was to be regularized but it has been followed by the impugned decision by order dated 30th July, 2019 i.e. Annexure-9. It is contended that two others who are equally situated and employed on similar lines like the petitioner have been regularized vide Annexure-15 to the rejoinder affidavit and therefore, the decision of opposite party No.1 rejecting the regularization under Annexure-9 cannot be sustained in law.

4. Recorded the submission of learned counsel for opposite party No.3 with reference to the counter affidavit.

5. Ms. Sahu, learned AGA for the State refers to the counter affidavit and justifies the decision as per Annexure-9.



It is pleaded therein that the petitioner was engaged after a walk-in interview and it was without any competitive examination held and also not in compliance with the ORV Act and Rules in terms of the notification of the Government in Health and Family Welfare Department dated 7th March, 2019 and therefore, his regularization deserves no consideration. In reply to the above, Mr. Biswal, learned counsel for the petitioner submits that as against one post, the petitioner was appointed on contractual basis, hence, there was no scope to consider any such reservation as per ORV Act and Rules and that apart, two other appointees under the scheme have been regularized. While demanding parity, Mr. Biswal, learned counsel cited a decision of the Apex Court in **Union of India and others Vrs. Munshi Ram 2022 (10) SCR 1135**.

6. There is no denial to the fact that the petitioner received appointment under a scheme. It is not in denial either that such engagement of the petitioner was by means of a walk-in interview. From Annexures-3 and 4 series, it is revealed that the service of the petitioner was extended from time to time and such engagement was consequent upon Annexure-1 as X-Ray Technician on contractual basis. The question is, whether, under the circumstances as above, the petitioner is entitled to regularization in service. The Rules in place allows contractual Radiographers and their services to be regularized upon fulfilment of the criteria fixed. A reference was earlier made to Rule 4(A)(1) of the Rules and also the relevant provisions with regard to the modalities for induction of Radiographers into the cadre. The Court takes cognizance of the fact that there has



been regularization of service of two others, namely, Minati Santi and Rojalin Parida vide Annexure-15 to the rejoinder affidavit. The petitioner having been appointed under the scheme, even though, on contractual basis, according to the Court, could not have been singled out. Furthermore, when one post was available and as against the said post, the petitioner was engaged, the ORV Act and Rules could not have been complied with. That apart, when regularization has been allowed vide Annexure-15, the Court is also the view that the opposite party No.1 cannot be allowed to take a stand that the petitioner has not been engaged by a regular recruitment process. In the considered view of the Court, even such engagement of the petitioner is not illegal and at best, it can be treated as irregular. Nevertheless, the petitioner has been allowed to continue in the post ever since appointed in the year 2011. Against the aforesaid backdrop, the Court considering the counter of the State and submission of Mr. Biswal, learned counsel for the petitioner is of the ultimate view that the petitioner's service deserves to be regularized.

7. In fact, Mr. Biswal, learned counsel referring to the decision in **Munshi Ram** (supra) submits that any such rejection of candidature of the petitioner amounts to discrimination in view of Annexure-15 to the rejoinder affidavit. The Apex Court in the above decision held and observed that there cannot be distinction in respect of the employees working in an establishment. In fact, in the above noted case, the employees working under the employer,



namely, Railway Board in different Zones/Divisions were treated differently and under such circumstances, the Apex Court concluded that all are to be treated equally without discrimination. Applying the above ratio and in view of the plea of the petitioner seeking regularization and since two others are already regularized in view Annexure-15, the fact which has been admitted in para-8 of the reply affidavit of opposite party No.5 filed to the rejoinder, the inescapable conclusion of the Court is that nothing remains for opposite party No.1 to consider except directing his regularization.

8. Accordingly, it is ordered.

9. In the result, the writ petition stands allowed. As a necessary corollary, the impugned order dated 30th July, 2019 at Annexure-9 is hereby set aside with a direction to opposite party No.1 to immediately regularize the service of the petitioner undertaking the above exercise at the earliest and concluding the same preferably by the end of April, 2026.

10. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

TUDU

Signature Not Verified

Digitally Signed
Signed by: THAKURDAS TUDU
Designation: Sr. Stenographer
Reason: Authentication
Location: OHC, CTC
Date: 24-Mar-2026 12:12:52

