



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.27146 of 2024

Ashok Kumar Patra

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Petitioner

Represented by Adv. –
Mr. Sanjib Mohanty

-versus-

State of Odisha and others.

.....

Opposite Parties

Represented by Adv. –
Mr. Dayananda Mohapatra,
Senior Advocate for O.P.
Nos.1 &2

Smt. Sasmita Nayak, ASC
for O.P. Nos.3 to 5

CORAM:
THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA
ORDER
23.03.2026

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. The Petitioner has aired his grievance, as is emerging from the text of prayer column of the petition, which reads as under:-

It is, therefore prayed that this Hon'ble Court may graciously be pleased to Admit the Writ Petition, call for the relevant records and issue Rule NISI calling upon the Opposite Party-Authorities to show cause as to why the prayer of the Petitioner shall not be allowed and If the Opposite Party-Authorities fail to show cause or show insufficient cause, the said Rule be made absolute;

And pass necessary order to set aside Annexure-15 dtd 26.09.2024 and Annexure-17 dtd 06.02.2014 and further may be pleased to command



the Opp. Party-Authorities more specifically the Opp. Party No.2 to regularize the services of the petitioner with effect from 19.04.1991 i.e. the initial date of his joining instead of 18.03.2011 and further the consequential benefits along with arrear salary component if any, pursuant to such regularization including all permissible dues as would be admissible to him be released in his favour within a stipulated period.

And/or pass any other order(s) which deem fit and proper for adjudication of the case.”

3. The short and sweet of the petition is that the date of regularization of petitioner should to be with effect from 19.04.1991 when he gained entry in service, may be on daily wage basis. Learned counsel for the petitioner argues that several persons were engaged on daily wage basis, a copy whereof avails at Annexure-1 wherein the name of his client figures at Sl. No.162; all others barring a few came to be regularized in service with effect from the date of their entry into service whereas his client has been meted out a step-motherly treatment, inasmuch as he has been given 18.03.2011 as the date of regularization when it ought to have been 19.04.1991. Counsel draws attention of the Court to petitioner earlier round of litigation in W.P.(C) No.6852 of 2006 disposed off on 05.08.2011.

4. Learned panel counsel for the University, in his usual style, opposes the petition contending that his client being a State-University, it depends upon the funds to be given by the State Government; any appointments would require funds since an appointee has to be given salary/emoluments; same is the case when a daily wager is regularized in service since he attains the status of regular employee and eventually, there shall be amelioration of drawals. He tells the Court that though the petitioner was given order



of regularization on 06.02.2014, he first approached this Court in W.P.(C) No.6852 of 2006, which was disposed of on 05.08.2011 and therefore, even if regularization is to be effective from the date of entry into service, it has to be only on notional basis is broadly acceptable to this Court. Therefore, he contends the interference of this Court is not called for especially when petitioner has already been given regularization vide order dated 06.02.2014 with effect from 18.03.2011.

5. Having heard learned counsel for the parties and having perused petition papers, this Court is inclined to grant indulgence in the matter, inasmuch as the petitioner was appointed on 19.04.1991 along with several others and those several others have already been regularized in service with effect from the respective dates of their entry. That being the position, *what applies to goose, shall apply to gander* and therefore, the services of the petitioner ought to have been regularized with retrospective effect from 19.04.1991 on the principle of parity and equality, which Articles 14 & 16 of the Constitution of India enshrine.

5.1. Learned counsel for the petitioner is right in drawing the attention of Court to the order dated 05.08.2011 passed in his earlier W.P.(C) No.6852 of 2006 wherein he was permitted to give a representation coupled with a direction to University to cause its consideration. The University is an instrumentality of the State under Article 12 of the Constitution, vide decision of Apex Court in ***Ujam Bai v. State of UP***, AIR 1962 SC 1621 and therefore all its action are subject to discipline of Part-III of the Constitution and they are liable to examination in writ jurisdiction of this Court. There is apparent discrimination of petitioner at the hands of University Authorities



and therefore, the same cannot be sustained.

In the above circumstances, this petition succeeds; a Writ of Certiorari issues quashing the impugned order dated 06.02.2014 to the extent it fixes petitioner's effective date of regularization as 18.03.2011 coupled with a direction to fix "19.04.1991" as the date of his regularization. Further, the petitioner shall be given notional benefit of retrospective regularization till 04.08.2011 and the monetary benefits only with effect from 05.08.2011. So far as the financial aspects are concerned, it hardly needs to be stated that the opposite party no.4 has to make appropriate budgetary allocation in this regard. Compliance within three (3) months, to be reckoned from this day.

Now, no costs.

Web copy of this order to be acted upon by all concerned.

(Aditya Kumar Mohapatra)
Judge

Debasis