



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.32472 of 2025

Harihar Swain

....

Petitioner

Mr. C.K. Sahoo, Advocate

-versus-

State of Odisha & Ors.

....

Opposite Parties

Mr. C.K. Pradhan, AGA

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

15.12.2025

Order No.

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

2. Heard learned counsel appearing for the Parties.

3. The present Writ Petition has been filed *inter alia* challenging the order dtd.30.08.2025 so issued by the Addl. Chief Engineer-Opposite Party No.4 under Annexure-7-series. Vide the said order, claim of the Petitioner to get the benefit of pension and other pensionary benefits has been rejected.

4. It is contended that Petitioner was initially engaged as a NMR in the year 1993 and subsequently while working as such, he was brought over to the work-charged establishment in the year 2009 as a Khallasi. Petitioner while so continuing in the work-charged establishment, he retired from service on attaining the age of superannuation on 28.02.2025.



4.1. It is contended that even though Petitioner continued as a NMR w.e.f. 01.02.1993 and as a work charged employee w.e.f. the year 2009 and retired on attaining the age of superannuation on 28.02.2025, on the face of such long continuance, Petitioner was never regularized and thereby entitling him to get the benefit of pension and other pensionary benefits.

4.2. However, Petitioner when raised such a claim and approached this Court by filing W.P.(C) No.4620 of 2025 and this Court directed for consideration of the Petitioner's claim, the same has been rejected vide the impugned order under Annexure-7-series.

4.3. It is further contended that the claim as made by the Petitioner is no more *res-integra* in view of the decision of the Hon'ble Apex Court in the case of **State of Odisha & Ors. vs. G. Balakrishna** in Special Leave Petition (Civil) Diary No.33400 of 2023. Hon'ble Apex Court while disposing the SLP and a batch of appeals filed by the State against the order passed in a batch of Writ Petitions on similar issue, upheld the order passed by this Court and the leading decision is in the case of **Khageswar Jena vs. State of Odisha & Ors.** in W.P.(C) No.29993 of 2022.

4.4. It is accordingly contended that in view of the nature of order passed by this Court in the case of **Khageswar Jena** as cited (supra) and the order passed by the Apex



Court in upholding the order, the ground on which Petitioner's claim has been rejected vide the impugned order dtd.30.08.2025 under Annexure-7-Series is not sustainable in the eye of law and the matter requires a fresh consideration in the light of the order passed in the case of **Khageswar Jena** so upheld by the Apex Court in the batch of Civil Appeal vide order under Annexure-8-Series.

5. Mr. C.K. Pradhan, learned Addl. Government Advocate for the State on the other hand contended that if as contended claim of the Petitioner is covered by the decision in the case of **Khageswar Jena** so upheld by the Apex Court vide order under Annexure-11-Series, this Court can pass an appropriate order for reconsideration of the Petitioner's grievance.

6. Having heard learned counsel appearing for the Parties and considering the submissions made, it is found that Petitioner continued as a NMR in the establishment of Opposite Party No.5 w.e.f. 01.02.1993 and as a work charged employee after being so brought over vide order dtd.09.10.2009 under Annexure-7-Series.

6.1. It is found that Petitioner while continuing in the work charged establishment, retired from service on attaining the age of superannuation on 28.02.2025.



6.2. Considering such long continuance of the Petitioner as a NMR and as a work charged employee and placing reliance on the decision in the case of ***Khageswar Jena*** so upheld by the Apex Court vide order under Annexure-8-Series, this Court is of the view that the ground on which Petitioner's claim has been rejected is no more sustainable in the eye of law.

6.3. Therefore, this Court while quashing the impugned order dtd.30.08.2025 under Annexure-7-Series, directs Opposite Party No.4 to take a fresh decision on the claim of the Petitioner taking into account the order passed in the case of ***Khageswar Jena*** so upheld by the Apex Court in the case of ***G. Balakrishna***. This Court directs Opposite Party No.4 to take a fresh decision within a period of three (3) months from the date of receipt of this order. Petitioner is directed to provide a copy of this order along with the orders available under Annexure-8-Series before Opposite Party No.4 for compliance.

7. Accordingly, the Writ Petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge