



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)No.32965 of 2025

Swarup Kumar Dalai

....

Petitioner

Mr. S.B. Jena, Adv.

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. S.P. Das, ASC

CORAM:

THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY

Order
No.

ORDER
16.12.2025

1. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel appearing for the parties.
3. Though the matter has been listed under the heading "Fresh Admission", but considering the fact that this is the third visit of the Petitioner to this Court, this Court on the consent of the learned counsels appearing for the Parties, took up the matter for final disposal.
4. The present Writ Petition has been filed inter alia challenging the rejection of the Petitioner's claim to get the benefit of regularisation and consequential the sanction of pension and other pensionary benefits in terms of the provisions contained under the OCS (Pension) Rules, 1992.



4.1. It is contended that Petitioner was engaged as a NMR in the establishment of Opp. Party No.3 on 01.08.1989 and while continuing as such, he was brought over to the work charged establishment, instead of being regularly absorbed, vide order dt.27.01.2010 under Annexure-2 but w.e.f 01.03.2009. It is contended that while continuing in the work charged establishment, Petitioner retired from service on attaining the age of superannuation w.e.f 30.04.2020 vide letter dt.27.03.2020 under Annexure-3.

4.2. Learned counsel appearing for the Petitioner contended that even though Petitioner continued as a NMR w.e.f 01.08.1989 and in the work charged establishment w.e.f 01.03.2009, but at no point of time, he was regularised in his services in terms of Finance Department resolution dt.15.05.1997 so available under Annexure-1 and decision of the Hon'ble Apex Court in the case of **Secretary, State of Karnatak Vs. Uma Devi (2006) 4 SCC-1,**.

4.3. However, taking into account such long continuance as a NMR and in the work charged establishment, Petitioner raised his claim to get the benefit of absorption in the regular establishment for the purpose of getting the benefit of pension and pensionary benefits under the OCS (Pension) Rules, 1992. Such claim of the Petitioner when was not considered, he approached this Court by filing W.P.(C) No.17222 of 2022. This Court vide order dt.26.07.2022



under Annexure-4, when directed Opp. Party No.1 to consider the Petitioner's grievance, the same was rejected without proper appreciation vide order dt.23.11.2022 under Annexure-5.

4.4. It is contended that challenging such order passed on 23.11.2022, Petitioner again approached this Court by filing W.P.(C) No.33242 of 2022. This Court while disposing the matter vide order dt.16.12.2022 under Annexure-6, directed Opp. Party No.1 to re-consider the Petitioner's claim in the light of the order passed in the case of **Narasu Pradhan Vs. State of Orissa and Others**. However, learned counsel appearing for the Petitioner fairly contended that claim of the Petitioner is not covered by the decision in the case of **Narasu Pradhan**.

4.5. It is however contended that since Petitioner continued for a pretty long period starting from 01.08.1999 till 30.04.2020 under the Opp. Parties as a NMR and work charged employee, he should have been absorbed in the regular establishment to get the benefit of pension and other pensionary benefits. But on the face of such order passed by this Court under Annexure-6, claim of the Petitioner was again rejected vide the impugned order dt.06.06.2023 under Annexure-8. It is also contended that such an order of rejection was provided to the Petitioner under RTI vide letter dt.19.09.2025 under Annexure-7.



4.6. Learned counsel appearing for the Petitioner however contended that, claim of similarly situated employees after being allowed by this Court in the case of ***Khageswar Jena Vs. State of Odisha & Others***, so passed ***in W.P.(C) No. 29993 of 2022***, has been upheld by this Court as well as by the Apex Court. While dismissing a batch of Civil Appeals, Hon'ble Apex Court in the case of ***The State of Odisha & Others Vs. G. Balakrishna, SLP (Civil) Diary No.33400 of 2023***, vide order dt 24.07.2025, Hon'ble Apex Court has upheld the order so passed in the case of Khageswar Jena and similar order passed in a batch of Writ Petitions.

4.7. It is contended that since similar claim allowed by this Court in the case of Khageswar Jena and in other Writ Petitions has been upheld by the Apex Court while dismissing a batch of SLPs so filed by the State on 24.07.2025 in the case of ***G. Balakrishna***, as cited supra, rejection of the Petitioner's claim on the ground indicated in Annexure-3 is no more sustainable. It is accordingly contended that the impugned order be set aside with a direction on the Opp. Party No.1 to extend similar benefits in terms of order passed in the case of Khageswar Jena so upheld by the Apex Court in the meantime.

5. Mr. S.P. Das, learned Addl. Standing Counsel on the other hand contended that since Petitioner during his service career never raised a claim to get the benefit



of absorption in the regular establishment and such a claim was only raised for the first time in the year 2022, which is after his retirement, Petitioner is not eligible and entitled to get the benefit. It is also contended that pursuant to order passed by this Court in W.P.(C) No.17222 of 2022, claim of the Petitioner though was rejected vide order dt.23.11.2022 and the same was challenged in W.P.(C) No.33242 of 2022, but the said rejection was never interfered with by this Court. However, considering the nature of order issued under Annexure-6, Petitioner was found ineligible to get the benefit and such a claim was rejected vide order dt.06.06.2023 under Annexure-8. It is accordingly contended that no illegality or irregularity can be found with the impugned order.

6. Having heard learned counsel appearing for the parties and considering the submission made, this Court finds that Petitioner was engaged as a NMR in the establishment of Opp. Party No.3 on 01.08.1989. Such engagement of the Petitioner is admittedly prior to the cut-off date so fixed by the Finance Deptt. in its resolution dt.15.05.1997 under Annexure-1 i.e. 12.04.1993. On the face of the engagement of the Petitioner as a NMR w.e.f 01.08.1989, Petitioner was never absorbed in the regular establishment in terms of the resolution issued by the Finance Deptt. on 15.05.1997 and the decision in the case of Uma Devi as cited supra.



6.1. Petitioner however was brought over to the work charged establishment w.e.f 01.03.2009 vide order dt.27.01.2010 under Annexure-2. While so continuing, he retired from Government Service on attaining the age of superannuation on 30.04.2020, as found from Annexure-3. Since Petitioner continued as a NMR w.e.f 01.08.1989 and as a work charged employee w.e.f 01.03.2009, it is the view of this Court that claim of the Petitioner is squarely covered by the decision in the case of Khageswar Jena so upheld by this Court as well as by the Apex Court while dismissing a batch of appeals in the case of **G. Balkrishnan** as cited supra.

6.2. In view of the aforesaid analysis, it is the view of this Court that the ground on which the Petitioner's claim has been rejected vide the impugned order on 06.06.2023 under Annexure-8, is no more sustainable in the eye of law. Therefore while quashing the said order, this Court directs Opp. Party No.1 to extend similar benefit as has been extended in favour of **Khageswar Jena**. This Court directs Opp. Party No.1 to do the needful within a period of 3(three) months from the date of receipt of this order. Petitioner is directed to provide a copy of this order as well as a copy of the order passed in the case of Khageswar Jena before Opp. Party No.1 for compliance.

6.3. The Writ Petition accordingly stands disposed of.

(Biraja Prasanna Satapathy)
Judge

sangita