



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 1867 OF 2025

State of Odisha and another

.... Appellants

Represented by Adv.-
Mr. S.B. Panda, AGA

-versus-

Jhunita Behera

.... Respondents

Mr. Rama Krishna Bisoi, Advocate

CORAM:

JUSTICE KRISHNA SHRIPAD DIXIT

JUSTICE CHITTARANJAN DASH

Order No.

ORDER

27.02.2026

01.

The State and its officials have filed this Intra-Court appeal calling in question the learned Single Judge's order dated 09.07.2024 whereby the respondent-employee's W.P.(C) No. 15202 of 2023 having been favoured, relief has been conferred on her as under:

“5. Having heard the learned counsel appearing for the respective parties and on a careful examination of the back ground facts as well as materials on record, this Court is of the view that the case of the petitioner since covered by the cases referred to herein above, the Authority concerned shall do well to regularize her services as per the Rules.

2. The appeal is moved after brooking a delay of 476 days and an application in I.A. No. 4583 of 2025 supported by affidavit has been filed accompanying the appeal.

3. Having heard learned counsel for the parties and having perused the appeal papers and also the delay application, we decline indulgence in the matter with some observations for the following reasons:

3.1 Firstly, we do not propose to examine merits of the main matter inasmuch as delay has not been properly explained in the application in I.A. No.4583 of 2025 supported by affidavit in respect 476 days. In several such cases, we have held therein that the law relating to



condonation of delay cannot be leniently construed merely because the applicants happen to be the State and its entities. If the law makers wanted a leniency, they would have made appropriate provision to that effect. Therefore, the application itself is liable to be rejected for want of sufficient cause.

The above being said, we also have undertaken deeper examination of the matter so that the due justice is done to the respondent- employee who is in the Group-C being a lady Nurse. She was appointed on contract basis w.e.f. 29.12.1999. She secured regularization order dated 07.04.2021 wherein the regularization was w.e.f. 02.08.2014. Therefore, she had petitioned and the learned Single Judge said that it should be immediately after six years of joining date as has been provided in the resolution dated 17.09.2013. Learned Single Judge has rightly granted the relief to the effect that the respondent's regularization has to be with retrospective effect i.e. with effect from the date she completed six years of service on contract basis.

We also impressed by the reasoning of the learned Single Judge inasmuch as he has rightly chosen to follow a Coordinate Bench decision of this Court in W.P.(C) No. 4099 of 2021 between State of Odisha Vs. Ajay Kumar Behera disposed off on 20.04.2021, wherein paragraphs 12 & 13 read as under:

"12. Mr. R.K. Bisoi, learned counsel for the Petitioner submits that the pleadings of the Petitioners-State are factually incorrect. Drawing attention of the Court to the Letter No.3949/H &FW-(IW)-78/2018 Bhubaneswar dated 13.02.2019 of the Government of Orissa, Health and Family Welfare Department, he further submits that the Deputy Secretary to Government of Odisha, Health and Family Welfare Department requested the Chief District Medical and Public Health Officer, Khordha to take appropriate steps for implementation of the order of the Tribunal in favour of the Opposite Party Nos.1 to 6 only if and otherwise admissible under intimation to this Department. The concurrence of the Law Department vide UOR No.114 dated 22.01.2019 was also taken.

13. It is well-settled principles of law that an order which has already been executed or already been complied with should not be allowed to be challenged by the party who was directed to



implement the same. But, in exceptional cases like in the case of fraud or forgery, a party may be allowed to challenge the same because fraudulent transaction vitiates all solemn acts. But herein the case there is no such case of fraud. We also do not find any substantial reason for the implementing authority to again seek for setting aside of the order.”

In the above circumstances, the appeal being devoid of merits is liable to be dismissed and accordingly it is. The appellants to give effect to the order of the learned Single Judge and report compliance to the Registrar General of this Court Judge within an outer limit of three (3) months, failing which the concerned officials are at the risk of contempt proceedings.

Registry shall send a copy of this order to the respondent by speed posts.

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

(Krishna Shripad. Dixit)
Judge

PKSahoo

(Chittaranjan Dash)
Judge