



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos.38132 & 38135 of 2023

Arun Kumar Mohapatra

....

Petitioner

Mr. M.K. Mishra, Sr. Advocate
with Mr. S. Senapati, Advocate

-versus-

State of Odisha and Ors.

....

Opposite Parties

Mr. S.P. Das, ASC
Mr. B.K. Dash, Sr. Adv. with
Mr. S.R. Dash, Advocate for O.P. No.3

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

24.06.2026

Order No.

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

2. Heard learned counsel for the parties.

3. The present Writ Petition has been filed *inter alia* with the following prayer:-

“It is, therefore, humbly prayed that this Hon’ble Court: may graciously be pleased to issue rule nisi calling upon the Opp. Parties to show cause as to why writ/writs shall not be issued quashing the impugned Minutes of the Meeting (resolution) dtd.30.12.2021 under Annexure -6(A), the Minutes of 43rd Meeting (resolution) dtd. 19.11.2022 under Annexure-6(B), Resolution of DPC dtd.21.12.2020 under Annexure-10 and the consequential dtd.06.02.2023 Annexure-6 and as to why the promotion of the petitioner to the post of Asst. Director (Technical) shall not be regularised w.e.f dtd.27.04.1998 as per order dtd.04.10.2019 and further be pleased to direct the authorities/Opp. Parties to give promotion to the petitioner to the post of Deputy



Director(Technical) within a stipulated time and perusal of causes shown if any or insufficient causes shown, make the said rule absolute and may pass such other order/orders as deemed just and proper.”

4. It is contended that while continuing as a Jr. Project Engineer in the establishment of Opp. Party Nos.2 and 3, both the petitioners were appointed as Asst. Director (Technical) on adhoc basis vide order dated 27.04.1998 and 24.04.1998 under Annexure-3.

4.1. It is further contended that on such appointment as Asst. Director (Technical) on adhoc basis, both the petitioners were extended with the scale of pay as due and admissible as against the said post. Not only that all further service benefits as due and admissible as against the post of Asst. Director (Technical), were also extended in favour of both the petitioners from time to time.

4.2. It is contended that while so continuing as Asst. Director (Technical) on adhoc basis pursuant to order dated 27.04.1998 and 24.04.1998 under Annexure-3 in both the Writ Petitions, basing on the DPC recommendation dated 17.09.2019 under Annexure-8, both the petitioners got the benefit of regularization as against the post of Asst. Director (Technical) from the date they were so appointed on adhoc basis vide order dated-04.10.2019 under Annexure-4. Recommendation of the DPC dated 17.09.2019 reads as follow:-

“As per restructured cadre and it's rule, the sanctioned post of Asst. Director (Tech.) is 20 which shall be filled up by way of direct recruitment. Total vacancy is 20. Seven Nos. Jr.



Project Engineer'/ Junior Engineers have been allowed to hold the posts of Asst. Director (Technical) in the scale of pay Rs. 2000 /- - 3500 /- (pre-revised) vide office order No. 1231 Dt. 24.03.2005, office order No.1875 Dt. 24.04.1998 & office order No. 1844 Dt. 24.04.1998 on officiating / adhoc basis. They are also getting regular scale & annual increment in the post of Asst. Director (Tech.). On careful consideration of the individual cases with reference to the service history,- required experience, disciplinary proceedings, vigilance cases and ORV Act / Rules, the committee recommended the following officers suitable for promotion to the post of Asst. Director (Tech.) from the date they have been allowed to hold such posts on officiating'/adhoc basis."

Sl. No.	Name	<u>Date of joining as Asst. Director</u> <u>on officiating/adhoc basis</u>
1.	Kishore Kumar Das	24.04.1998
2.	Maheswar Badajena	24.04.1998
3.	Arun Kumar Mohapatra	27.04.1998

4.3. It is contended that after getting the benefit of promotion as Asst. Director (Technical) from the date petitioners were so appointed on adhoc basis w.e.f. 27.04.1998 and 24.04.1998 vide order dated 04.10.2019 under Annexure-4 and while continuing as such, the impugned order was communicated vide order dated 06.02.2023 under Annexure-6. Vide the said order, such promotion of the petitioners as Asst. Director (Technical) was treated to have been made prospectively.

4.4. It is contended that order under Annexure-6 was issued basing on the decision taken by the Governing Body of OREDA on 19.11.2022 under Annexure-6(B).



Decision taken in Agenda No.11 of the Proceeding of the meeting dated 19.11.2022 reads as follows:-

“Regularisation of service of existing six Assistant Directors(Technical), OREDA on promotion (Officiating/ad-hoc basis)

The GB considered the regularisation of services of the six Assistant Directors(Technicians) who were promoted on officiating/adhoc basis without observing the prescribed procedures for such promotion. It was decided that their services will be regularized prospectively, but there will be no recovery of the financial benefits they have already received due to their officiating/ad-hoc promotion.”

4.5. While assailing the impugned order so far as regularization as against the post of Asst. Director (Technical) prospectively is concerned, learned Senior Counsel vehemently contended that since petitioners were extended with the benefit on adhoc promotion in the rank of Asst. Director (Technical) w.e.f. 27.04.1998 and 24.04.1998 in terms of the order issued under Annexure-3 and DPC dtd.17.09.2019 recommended for regularization as against the said post from the date petitioners were so appointed on adhoc basis, after extension of the benefit basing on the DPC recommendation dated 17.09.2019, vide order dated 04.10.2019 under Annexure-4, such benefit could not have been withdrawn unilaterally, basing on a subsequent decision taken by the Board in its Proceeding dated 19.11.2022 under Annexure-6(B).

4.6. It is also contended that in the proceeding dtd.19.11.2022 while treating the regularization of the



petitioners as against the post of Asst. Director (Technical) prospectively, it was however decided not to recover the financial benefit already received by the petitioner while continuing on adhoc basis.

4.7. It is contended that since petitioners basing on Annexure-3 order, were allowed to continue in the promotional post on adhoc basis and were extended with the benefit of promotion vide order dated 04.10.2019 under Annexure-4, from the date they are continuing on adhoc basis with all service benefits and it was also decided not to recover the benefits in terms of DPC recommendation dtd.17.09.2019, regularization of the services of the petitioners as against the post of Asst. Director (Technical) on promotion w.e.f. 27.04.1998 and 24.04.1998 could not have been treated to have issued prospectively vide the impugned order issued on 06.02.2023 under Annexure-6, in terms of the decision taken in the proceeding of the meeting dtd.30.12.2021 and 19.11.2022 under Annexure-6(A) & 6(B).

4.8. It is further contended that as provided under Orissa Renewable Energy Development Agency Service Rules, 1997, more particularly Rule-6 of the said Rules, 1/3rd of the post in the rank of Asst. Director (Technical) is required to be filled up by way of promotion. Rule-6(2) of the Rules reads as follows:-



“6. Assistant Director (Technical): The posts of Assistant Director (Technical) shall be filled up in the following manner, namely:

(1) Not less than two-thirds of the said posts shall be filled up by direct recruitment from among persons having First Class B.E./B. Tech degree in Electrical Engineering or Mechanical Engineering or Agricultural Engineering, as may be specified.

(2) Not more than one-third of the said posts shall be filled up by selection from amongst the Junior Project Engineers who have (i) worked in that rank for at least ten years in OREDA service and (ii) achieved the targets in respect of Biogas, Improved Chullahs, Solar Lantern, Cooker during the last three years of their posting in the District Renewable Energy Cell/IREP.

4.9. It is accordingly contended that the impugned order dtd.06.02.2023 so issued under Annexure-6 needs interference of this Court.

5. Mr. B.K. Dash, learned Senior Counsel appearing for the Opp. Party Nos.2 and 3-OREDA, on the other hand made his submission basing on the stand taken in the counter affidavit so filed. It is contended that even though basing on the recommendation of the DPC dated 17.09.2019, petitioners were extended with the benefit of regularization as against the post of Asst. Director (Technical) vide order dated 04.10.2019 under Annexure-4, from their initial date of promotion on adhoc basis so issued vide order dated 27.04.1998 and 24.04.1998 under Annexure-3, but subsequently when it came to the knowledge of the Opp. Party Nos.2 and 3 that such benefit has been extended wrongly, basing on the decision taken in the minutes of the meeting held on



30.12.2021 under Annexure-A/2, the matter was placed before the Board.

5.1. The Board in its proceeding of the meeting dated 19.11.2022 under Annexure-B/2, decided to regularize the services of the petitioners as against the post in question prospectively and basing on such decision of the Board, the impugned order dated 06.02.2023 under Annexure-6 was issued.

5.2. It is contended that the DPC in its proceeding dated 17.09.2019 without following due procedure and without proper appreciation, recommended to extend the benefit of regularization on promotion from the date petitioners were so promoted on adhoc basis vide order dated 27.04.1998 and 24.04.1998 and the same was acted upon with issuance of order dated 04.10.2019 under Annexure-4. But since it was found that such benefit has been extended wrongly in favour of the petitioners, the Board in its wisdom, resolved to extend such benefit of promotion prospectively in its proceeding dated 28.11.2022 under Annexure-B/2, basing on the decision taken by the Committee on 30.12.2021 under Annexure-A/2.

5.3. It is also contended that in the meeting held on 30.12.2021 under Annexure-A/2, the Chief Executive, OREDA as the Chairman of the meeting, came to a finding that the prescribed procedures were not followed



at the time of giving officiating/adhoc promotion in favour of the present petitioners and accordingly recommended for placement of the matter before the Board.

5.4. It is accordingly contended that since the promotion of the petitioners w.e.f. the date they were continuing on adhoc basis vide order under Annexure-4 was issued basing on a wrong recommendation of DPC dtd.17.09.2019, benefit of regularization extended from the date petitioners were so promoted on adhoc basis, was modified with issuance of the order dated 06.02.2023 under Annexure-6.

5.5. It is accordingly contended that no illegality or irregularity can be found with such action of the Opp. Parties.

6. To the submission made by the learned Sr. Counsel appearing for Opp. Party Nos.2 and 3, learned Sr. Counsel appearing for the petitioners made further submission contending inter alia that after extending the benefit of promotion, from the date of adhoc promotion vide order dated 04.10.2019, the same could not have been treated as prospective promotion vide the impugned order dated 06.02.2023 under Annexure-6, without following the principle of natural justice. Not only that since both the petitioners continued in the promotional post of Asst. Director (Technical) w.e.f. 27.04.1998 and 24.04.1998 as per Order issued under Annexure-3 on



adhoc basis and such promotion was regularised vide order issued under Annexure-4, they will be seriously prejudiced if such order of promotion is taken as prospective promotion so issued vide order dated 06.02.2023 under Annexure-6.

6.1. It is also contended that since it is not disputed that petitioners have received all the financial benefit as due and admissible to the promotional post w.e.f. 27.04.1998 and 24.04.1998 and in the proceeding of the meeting dtd.19.11.2022 under Annexure-6(B), it has also been decided not to recover the benefit, there was no occasion to treat the promotion as a prospective one. Such an action has been taken only to deprive the petitioners to get the benefit of further promotion to the next higher rank.

7. Having heard learned counsel for the parties and considering the submission made, this Court finds that both the petitioners while continuing under Opp. Party Nos.2 and 3 as against the post of Jr. Project Engineers, they were promoted as against the post of Asst. Director (Technical) on adhoc basis vide order dated 27.04.1998 and 24.04.1998 under Annexure-3. It is not disputed that on such promotion on adhoc basis w.e.f. 27.04.1998 and 24.04.1998, both the petitioners were extended with the benefit of the scale of pay as due and admissible to the post in question.



7.1. It is also not disputed that both the petitioners were extended with all service benefits as due and admissible as against the post of Asst. Director (Technical) all through w.e.f. 27.04.1998 and 24.04.1998 till the DPC in its Proceeding dated 17.09.2019, recommended to extend the benefit of promotion on regular basis in favour of the petitioners, from the date they were initially promoted on adhoc basis vide orders issued under Annexure-3.

7.2. Basing on such recommendation of the DPC dated 17.09.2019 under Annexure-8, both the petitioners were regularized as against the post of Asst. Director (Technical) from their initial date of promotion on adhoc basis, vide order dated 04.10.2019 under Annexure-4.

7.3. However, it is found that subsequent to extension of such benefit, basing on the decision taken in the meeting held on 30.12.2021 under Annexure-A/2, the Board in its Proceeding datd 19.11.2022 under Annexure-B/2, resolved to extend the benefit of promotion in favour of the petitioners prospectively. However in the said proceeding, the Board resolved that no recovery be made so far as extension of financial benefit is concerned.

7.4. Considering the fact that petitioners were given the benefit of promotion on adhoc basis w.e.f. 27.04.1998 and 24.04.1998 and were regularised in the promotional post from the date they were initially promoted on adhoc basis, basing on the recommendation of the DPC dated



17.09.2019 under Annexure-8, vide order dated 04.10.2019 under Annexure-4 and in view of the fact that petitioners all through were extended with the benefit of the scale of pay as due and admissible as against the post of Asst. Director (Technical), this Court is of the view that the decision taken by the Board in its proceeding dated 19.11.2022 under Annexure-B/2 to extend the benefit of promotion prospectively under Annexure-A/2, is not legal and justified.

7.5. Therefore, in view of the aforesaid analysis, this Court is inclined to quash order dated 06.02.2023 so issued under Annexure-6, wherein benefit of regularization of promotion was treated to have been issued prospectively and quash the same accordingly. While quashing order dated 06.02.2023, this Court in the alternate upheld the order issued under Annexure-4 dated 04.10.2019, and direct the Opp. Parties to continue with such order with extension of the benefits as due and admissible in favour of the petitioners.

8. Both the Writ Petition stand disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Basudev

Signature Not Verified

Digitally Signed
Signed by: BASUDEV SWAIN
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 30-Jun-2026 10:41:19

