



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.41083 of 2023

Sanjib Narayan Prasad Pati *Petitioner*
Mr. Amiya Kumar Mohanty-A, Advocate
-versus-
State of Odisha and others *Opposite Parties*
Ms. Jyoshnamayee Sahoo, ASC for O.P.
Nos. 1 & 2
Mr. Mahendra Kumar Pradhan, Advocate for
O.P. Nos. 4 & 5

CORAM:
HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

Order No.
20.

ORDER
25.11.2024

This matter is taken up through Hybrid Mode.

2. Mr. Mahendra Kumar Pradhan, learned counsel appearing for opposite party nos. 4 & 5 drew attention of this Court to the order dated 12.11.2024, on which date this Court adjourned this matter for the purpose of consideration of maintainability of the writ petition against opposite party nos. 4 & 5.

3. Learned counsel appearing for the petitioner brought to the notice that this Court in earlier round of litigation vide order dated 09.10.2023 in W.P.(C) No.32311 of 2023 passed in respect of maintainability. Paragraphs-8 & 9 of the said order reflects as follows:-

“8. On a careful consideration of submissions made by the learned counsels appearing for the parties and on scrutiny of the background facts of the present case as well as the materials on record, this Court observed that



the project involved in the present writ petition is funded and financed by Government of India and to be executed by NABARD through NABARD Consultancy Services Pvt. Ltd., which is a wholly subsidiary of NABARD. Further, the advertisement pursuant to which the Petitioner applied for the post of Team Leader (Banking Expert) is governed by the terms and conditions contained in the advertisement under Annexure-2 to the writ petition. On a careful examination of the advertisement under Annexure-2 reveals that the contract period as mentioned under Clause-8 of the advertisement reveals that the Project Based Contract Staff (PBCS) would be hired on contract basis initially for a period upto 30 April, 2023, which may be extended based on the requirement of the project and performance or will be co-terminus with the project period. In the present case, initially a contract was executed with the Petitioner in respect of the Team Leader (Banking Expert) post which was extended on quite few occasions till 23rd June, 2023. Thereafter, the same has not been renewed, although the project is ongoing and more funds have been allocated for such project, the service of the Petitioner has been dispensed with without assigning any valid reason. It is not a case that where the Petitioner was not found suitable for the post or his performance was not upto the expectation and that is the case, the Petitioner would have been given opportunity to show cause or the contract while terminated as per the termination clause contained in the contract itself. Therefore, the present case is a case where the contract with the Petitioner has come to an end on expiry of the tenure of the contract and thereafter the same has not been renewed. On the contrary, the Opposite Parties have again issued an advertisement to fill up such contractual post. On a careful analysis of



factual background of the case, this Court is of the considered view that a well settled principle of law that a set of contractual employee cannot be replaced by another set of contractual employee and the same shall have full application to the fact of the present case.

9. In view of the aforesaid analysis of facts as well as law, this Court without entering into the merits of the matter at this stage deems it proper to dispose of the writ petition by directing the Petitioner to approach the Opposite Party No.4-AGM, NABARD, In-Charge of NABARD Consultancy Service Pvt. Ltd., Delhi by filing a detailed grievance petition taking therein all the grounds along with supporting documents within a period of two weeks from today. In the event such a petition is filed, the Opposite Party No.4 shall do well to consider the same in the light of the aforesaid analysis and dispose of the grievance petition by passing a speaking and reasoned order within a period of three weeks from the date of communication of a certified copy of this order along with a petition as has been indicated hereinabove. The finally decision so taken be communicated to the Petitioner within a week thereafter. It is further directed that till a decision is taken on the grievance petition of the Petitioner as has been directed hereinabove, the post of Team Leader (Banking Expert) shall not be filled up.”

3.1. He further submitted that opposite party nos.4 & 5 have not challenged the said order in further proceeding before any higher Court. Rather they have accepted the said order and complied with the direction contained therein.



4. Against this, learned counsel appearing for opposite party nos.4 & 5 vehemently contested the maintainability of the writ petition.

5. This Court having considered the rival contentions on the maintainability of the present writ petition, on perusal of Annexure-14, i.e., the decision of the NABARD Consultancy Service Private Limited vide Reference No.NABCONS/CO/HR/1267/2023-24 dated 06.12.2023 issued speaking and reasoned order in compliance of this Court's order dated 09.10.2024 passed in W.P.(C) No.32311 of 2023.

6. In such view of the matter, after arguing for sometime, learned counsel appearing for opposite party nos.4 & 5 conceded that he would not press for maintainability of the present writ petition (second round of litigation) against the opposite party nos.4 & 5. However, he suggests for addressing the matter on merits.

7. Since learned counsel appearing for the petitioner has addressed the matter on the merits after persuading this Court regarding the maintainability issue, learned counsel appearing for opposite party nos.4 & 5 is required to address the matter on merits.

8. As conceded by both the parties, list this matter on 29.11.2024 at 10.30 A.M. Since learned counsel appearing for the petitioner has already advanced arguments, no further adjournment shall be granted on that date.

(M.S. Raman)
Judge