

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 36038/2010

(Arising out of impugned final judgment and order dated 08/03/2010
in WP No. 12377/2009 passed by the High Court Of Orissa At Cuttack)

STATE OF ORISSA & ORS.

Petitioner(s)

VERSUS

RADHASHYAM MOHANTA & ORS.

Respondent(s)

(With interim relief and office report)
(For final disposal)

WITH

SLP(C) No. 4911-4912/2013

(With Office Report)

Date : 16/09/2014 These petitions were called on for hearing
today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s)

Mr. R. Sinha, Adv.
Mr. Preetam Mishra, Adv.
Mr. Sibbo Sankar Mishra, Adv.Mr. Ashok Panigrahi, Adv.
Mr. Santosh Kumar, Adv.
Ms. Ashmi Mohan, Adv.

For Respondent(s)

Mr. Ashok Kumar Mishra, Adv.
Mr. Kumar Gaurav, Adv.
Mr. B.N. Dubey, Adv.
Mr. Rajesh Ranjan Kumar, Adv.
Mr. Rameshwar Prasad Goyal, Adv.Mr. Anukul Chandra Pradhan, Sr. Adv.
Mr. Rahul Baid, Adv.
Mr. Saurabh Mishra, Adv.

Mrs. Kirti Renu Mishra, Adv.

Mr. Kedar Nath Tripathy, Adv.

UPON hearing the counsel the Court made the following

O R D E R

IA. No.2 of 2011

Learned counsel for the petitioners seeks leave of this Court to withdraw the aforesaid application and pursue its remedy before the High Court, where the writ petition is pending. Prayer is allowed.

Heard Mr. Sibbo Sankar Mishra and Mrs. Kirti Renu Mishra, learned counsel for the State of Orissa and Mr. Anukul Chandra Pradhan, learned senior counsel for the respondents.

The question that emerges for consideration in the special leave petition pertains to computation of qualifying service of Daily Labour Rates (DLRs) and NMRs employees for the purpose of grant of pension under the Orissa Civil Services (Pension) Rules, 1992.

Learned counsel for the petitioners have taken us through the scheme of the Rules, especially pertaining to job contract employees to highlight that there is a difference between job contract employees and DLR and NMR employees. A job contract employee is appointed after following a specific procedure laid down by the State Government and gets salary from the contingency fund of the State whereas the DLRs are appointed by the contractor and the payment part is supervised by the State Authority.

Learned counsel for the respondents states that on the basis of a direction issued by the High Court of Orissa in writ petition i.e. OJC No. 2147 of 1991, a scheme was formulated and the

respondents were regularized and, therefore, they should not be denied the benefit of a pension after rendering service for more than 20 to 25 years.

Learned counsel for the respondents further contend that if Resolution dated 15th May, 1997 is properly appreciated, it would be clear from paragraph 8 that DLR stands on a better footing than a job contract employee and as the High Court has so held, the order cannot be found fault with.

As advised as present without entering into the said arena of debate, we would like the learned counsel for the State to obtain instructions whether the respondents could be extended the benefit of pension and regard being had to the period of service rendered. We make it clear that the said instructions shall be without prejudice to the contentions that have been raised by learned counsel for the parties in the present special leave petition.

We have passed this direction so that the State can respond considering the state of penury of the employees after the retirement.

List these matters on 25.11.2014.

(MEENAKSHI KOHLI)
COURT MASTER

(RENUKA SADANA)
COURT MASTER