

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.41158 of 2023

***Kumuda Chandra Samal***

.... ***Petitioner***  
*Mr.P.K. Mohapatra, Advocate*

-versus-

***State of Odisha and others***

.... ***Opp. Parties***  
*Mr. P.K .Muduli, A.G.A.*  
*Mr. S.K. Patra, Standing Counsel*  
*for O.P.No.6.*

**CORAM:**  
**JUSTICE A.K. MOHAPATRA**

**ORDER**  
**02.01.2024**

**Order No.**

01.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel.
3. The Petitioner has filed this Writ Petition seeking direction to Opposite parties to give all benefit to him against the post of Dozer Operator Gr.-II as per Orissa Government Service Rules and regularize his service by calculating five years of continuous service as work charged employee and give him all service benefits on that basis including pensionary benefit immediately within a stipulated period.
4. Mr. Mohapatra, learned counsel for the Petitioner contended that similar benefit has been extended to one Narusu Pradhan. As such the Petitioner having stood in similar footing, he is entitled to grant all the benefits.
5. Learned Additional Government Advocate appearing for the

State contended that the Petitioner has already retired from service and he was working as Dozer Operator Gr.-II. He further contended that the claim of the Petitioner cannot sustain in the eye of law.

6. It is contended that one Narusu Pradhan, a similar circumstanced person like the Petitioner had filed O.A.No.1189(C) of 2006 praying for retiral benefits. The Tribunal allowed the retiral pensionary benefits in his favour vide order dated 11.06.2009 , which was challenged by the State before this Court in W.P.(C) No.5377 of 2010. This Court dismissed the Writ Petition on 19.12.2011 and confirmed the order passed by the Tribunal. Thereafter, against the order passed by this Court, the State has preferred SLP in Civil Appeal No.22498 of 2012 and the same was also dismissed on 07.01.2013. Recently similar issue has been decided by the Hon'ble Supreme Court in SLP(C) No.754 of 2020 vide order dated 30.10.2022; State of Odisha Vrs. Sarbeswar Bhujabal confirming the order passed by this Court in W.P.(C) No.7380 of 2019 as well as the Tribunal in O.A.No.606 of 2015 vide Annexure-6.

7. In that view of the matter, the relief claimed by the Petitioner is fully covered by the judgment of the Tribunal passed in the case of Narusu Pradhan, which has been confirmed by this Court as well as the apex Court. In view of the aforesaid facts and circumstances, the Petitioner is directed to approach the Opposite Party No.1 by filing a fresh representation within two weeks. In the event such a representation is filed, the same shall be considered in accordance with law. Further, the Opposite Party No.1 shall do well to examine whether the Petitioner's case is covered by the decision of this Court rendered in the case of Narusu Pradhan and Sarbeswar Bhujabal

which has been affirmed by the Hon'ble Supreme Court. In the event, the authority comes to the conclusion that the Petitioner is entitled to the relief as has been claimed by him then the benefit extended in favour of Narusu Pradhan and Sarbeswar Bhujabal be also extended in favour of the Petitioner within a period of six weeks from the date of taking such a decision.

8. Let the entire exercise be carried out within a period of three months.

9. Issue urgent certified copy of this order as per Rules.

*Debasis*

