

In the High Court of Orissa

ORDER SHEET

BLAPL W. P. (C) No. 2103/2023 of 20 23


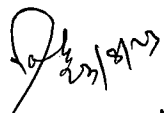
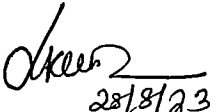
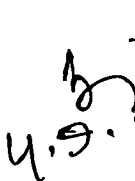
STATE OF ODISHA

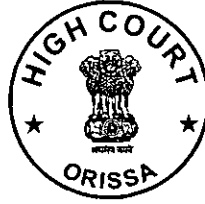
Versus

GOLAK BIHARI DEY

f ors. Petitioner

f ANR. Opposite-Party

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
 FC126717 SCANNED			<p>PRESENTED ON 23/08/2023 Register and Put up for Orders</p> <p> Registrar (Judicial) /C</p> <p>For S.R</p> <p> 28/8/23.</p> <p> S.R 4.9.23</p> <p>Bikram Sethy Assistant Registrar (Judl.)</p>





IN THE HIGH COURT OF ORISSA AT CUTTACK
W.A. No. 2103 of 2023

State of Odisha and others *Appellants*
Ms. A. Dash, Addl. Standing Counsel
-versus-
Golak Bihari Dey and another *Respondents*

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MISS JUSTICE SAVITRI RATHO

Order No. ORDER
01. 03.12.2024

01. This matter is taken up through Hybrid mode.
2. Ms. A. Dash, learned Additional Standing Counsel on behalf of the appellants submits that the case is covered by the decision of this Court dated 20.11.2023 in *W.A. No.1134 of 2023 (State of Odisha and another Vs. Sudhansu Sekhar Jena and others)*, but the same has been challenged by State of Odisha before the Supreme Court in SLP (C) No.2146 of 2021 and batch. The matters have been heard on 19.11.2024 and judgment has been reserved. She also submits that a similar matter i.e. W.A. No.614 of 2023 is posted to 10.12.2024.
3. List this matter on 10.12.2024 along with W.A. No.614 of 2023.


(Chakradhari Sharan Singh)
Chief Justice

(Savitri Ratho)
Judge

IN THE HIGH COURT OF ORISSA

Case No. W/A - 2103/23

OFFICE NOTES

Sl. No. of Order for compliance	Date of Order for compliance	Notes and action taken on order with signature of Dealing Assistant and Superintendent
		<p>(i) I.A no. - 5706/23 is at flag 'A' for dispensing with filing of c. copy of impugned order.</p> <p>(ii) I.A no. - 5707/23 is at flag 'B' for condonation of delay.</p> <p style="text-align: right;">For orders <u>SPC OAC 2489/18</u> <u>Deban Kumar Sahoo</u> <u>17-10-2023</u> <u>08-08-2023</u> <u>02.12.2024</u></p> <p style="text-align: right;">D.B</p>
01	03.12.2024	<p style="text-align: center;"><u>Order NO-1</u></p> <p>(i) I.A NO 5706/2023 is at flag 'A' for dispensing with filing of c copy of impugned order.</p> <p>(ii) I.A NO - 5707/2023 is at flag 'B' for condonation of delay.</p> <p style="text-align: right;">Along with APC OAC 2489/2018 (adist of case) and Release in WA 614/2023 <u>Akash Pradhan</u> <u>01/12/24</u> <u>Blair</u> <u>21/12/24</u></p> <p style="text-align: right;">D.B Adt to <u>10.12.2024</u></p>



ORISSA HIGH COURT
FILING ACKNOWLEDGEMENT SLIP

CNR	ODHC010671642023
Filing No	WA/0002103/2023
Date and Time	23/08/2023-16:14:16
Misc Case/IA	5706/2023,5707/2023,5708/2023
Petitioner Name	STATE OF ODISHA
Petitioner Advocate Name	PRADEEP KUMAR ROUT,A.G.A
Respondents Name	GOLAK BIHARI DEY
Respondents Advocate	
Amount	
Police Station	
FIR	-



Wednesday 23rd of August 2023 05:08:34 PM

STAMP REPORT

CASE NO.

WA 2103

23

LIMITATION

Date of Judgement Awards 21.09.2022

Date of Valid Presentation 23.08.2023

Total Period Occupied 304 days

Limitation 30 days

Certified Copy Period day

Delay in filing 304 days

1. In time No Expired on 21.10.22. *for calculation of delay*
2. Period of delay 304 days, 92 for *for calculation of delay*
3. Court Fee Rs. 12/- *paid*
4. Authentication fee due on the
(a) Copy of Trial Court Judgement
Rs. X Decree Rs.
(b) Appellate Court Judgement Rs.
Decree Rs.
5. (a) Copy of Trial Court Judgement/Order
(b) Appellate Court/Revisional Order *e.g. of impugned order not filed.*
Judgement *for disposal with filed.*
(c) Second Copy Petition *filed*
(d) Receipt showing copy on A.G. X
(e) Vakalatnama properly stamped,
Executed and accepted *appearance memo filed.*
6. (a) Cause Title *for order*
(b) Provision of Law *for the*
7. Code *in the*
8. Single Judge/Division Bench Case *DB*
9. Other Defects

STAMP REPORTER

Bikram Sethy
Assistant Registrar. (Judl.)

1. RFA/RSA/FAO/SAO/LPA/SPA/CRP/Review pet/O. Ref/EXFA/EXSA/SM/APP Tr. P(c) WP (c)/WA/SCLP/Co. Appl/Co. Pet/Co. Case/Co. App/Bkg. P/Mat. A/Mat Ref/RP (FAMCT) Test Case / Intest. Case/L.A. Ref/ RCFA/ L.A.A./RCSA/RE Rev/MAC/MAC APP/EL Pet/ ELAPP/Arb. P/Arb. A/Arb. A/Insurance Ref/Cont. Cas(c)/Could. App (c) / MFA(name of the Act)/MSA/SP. JC (name of the Act) Cri A/Cri. Rev/Ckl. M. C/ BLAPI/Cal. MAPPI/WP (crl) CUSREF STREV.

Case Type KIA No 2103 / 2023 Date of Regn. 23/8/23

2. If 'State' is Party, Name of the Deptt.: (Pet/Res) [Put Mark]

R&Dm.

If Public Undertakings (Specify name): (Pet/Res) [Put Mark]

3. (a) Number of Category under which the matter falls:

31

07

99

If Others, Specify the subject _____

(b) Which is applicable? [Put Mark]

(Single Bench/Div. Bench/Three Judge Bench/Five Judge Bench)

4. Article of the Constitution/Act (Central/State) [Put Mark]

Article-4 of Odisha High Court order-1948

5. Section/Sub-Section Involved _____

6. Rules Involved _____

N/A

7. Whether any other matter is pending in this Court on the same point of law :

If so, give the number of matter : _____

8. Whether any other matter is pending against the impugned order/Judgement?

If so give the number of matter : _____

9. Whether the matter is covered by any judgement of. the Supreme Court this Court or any other High Court, If so give the details of the judgement

N/A

10. Point of law involved in the matter Challenging the order Passed
By the Single Bench

Date 23/8/23

Dr.
Signature of the Advocate

High Court of Orissa

Acknowledgement



CNR

: ODHC010671642023

Efiling No

: AOD20220001886C202300650

Filing No.

: WA/2103/2023

Date of Filing

: 23-08-2023

Petitioner

: STATE OF ODISHA

Time of Filing

: 16:14:16

Petitioners

: PRADEEP KUMAR

Respondent

: GOLAK BIHARI

Advocate

: ROUT,A.G.A

DEY

: 0.00



[Print](#)

IN THE HIGH COURT OF ORISSA, CUTTACK

W.A. No. 2103 of 2023
(Arising out of W.P.C (OAC) No.2489/2018,
Disposed of on 21.09.2022)

Code No. 310799

State of Odisha & Anr.

....Appellants

-Versus-

Golak Bihari Dey


....Respondents

I N D E X

Sl. No.	Description of documents	Pages
1.	Synopsis	A
2.	Date Chart	B
3.	Writ Appeal	01 - 11
4.	<u>Annexure-1</u> Copy of the order dated 21.09.2022 passed in W.P.C (OAC) No.2489/2018	12 - 14

Cuttack

Date : 21/8/23


(PRADEEP KUMAR ROUT)
ADDL. GOVT. ADVOCATE
Enrolment No. O-758/1989
Mobile No. 7978898320

A

IN THE HIGH COURT OF ORISSA, CUTTACK

W.A. No. 2103 of 2023

State of Odisha & Anr.Appellants

-Versus-

Golak Bihari DeyRespondents

SYNOPSIS ON BEHALF OF
THE APPELLANTS

The appellants have filed the aforesaid Writ Appeal challenging the judgment and order dated 21.09.2022 passed in W.P.C (OAC) No.2489/2018 by which the Hon'ble Single Judge has directed the appellants to extend all such benefits in favour of the writ petitioner in terms of the directions given by the Courts in the cases namely (i) Nityananda Biswal – Vrs.- State of Odisha & others and (ii) T.A. No.11 of 1993, disposed of on 21.10.1994 (Bhagaban Patnaik – Vrs.- State of Odisha).

Cuttack

Date: 21/9/23



Addl. Government Advocate

B

IN THE HIGH COURT OF ORISSA, CUTTACK

W.A. No. 2103 of 2023

State of Odisha & Anr. Appellants

-Versus-

Golak Bihari Dey Respondent

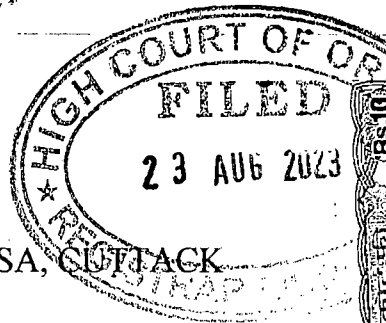
DATE CHART ON BEHALF OF
THE APPELLANTS

1. 25.01.1978 : The Respondent No.1 entered into service as Chianman.
2. 10.06.2011 : The Respondent No.1 was brought over to regular establishment.
3. 29.02.2016 : The Respondent No.1 retired from service on attaining the age of superannuation.
3. 21.09.2022 : The impugned order was passed by this Hon'ble Court.

Cuttack

Date : 25/8/23


Addl. Government Advocate



IN THE HIGH COURT OF ORISSA, CUTTACK

W.A. No. 2103 of 2023
(Arising out of W.P.C (OAC) No.2489/2018,
Disposed of on 21.09.2022)

Code No. 310799

In the matter of :

An appeal under Article-4 of the
Orissa High Court Orders, 1948
read with Clause-10 of the Letter
Patent of the Orissa High Court;

And

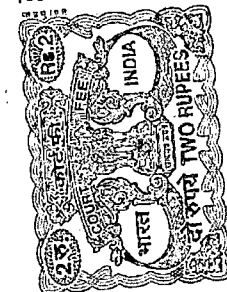
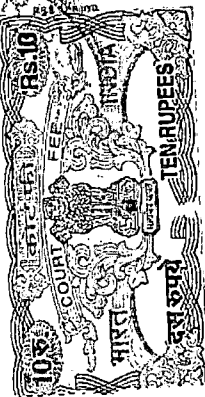
In the matter of :

An appeal challenging the judgment
and order dated 21.09.2022 passed
in W.P.C (OAC) No.2489/2018 by
the Hon'ble Single Judge;

And

In the matter of :

1. State of Odisha represented through
its Secretary, Government of
Odisha, Revenue & Disaster
Management Department,
Bhubaneswar, Dist.-Khurda.
2. Director, Land Records Surveys
and Consolidation, Odisha, Board
of Revenue, Cuttack.
3. Collector, Balasore, At/P.O/Dist. –
Balasore.
4. Tahasildar, Balasore, At/P.O/Dist.-
Balasore.



Presented on 23/8/23

[Signature]
Registrar (Judicial)/c

[Signature]

5. Dy. Director of Consolidation,
Baripada, At/P.O- Baripada, Dist.-
Mayurbhanj.

...APPELLANTS
(Opposite Party Nos.1 & 5
in the writ application)

-VERSUS-

1. Golak Bihari Dey, aged about 68
years, S/o. Late Bishnupada Dey,
At- Damodarpur, P.O- Sarabati,
Via.- Motiganj, Dist.- Balasore,
Retd. Peon of Balasore ahasil under
Collectorate Balasore, At/P.O/Dist.-
Balasore.

...RESPONDENT
(Petitioner in the writ application)

2. The Accountant General (A&E),
Odisha, Bhubaneswar

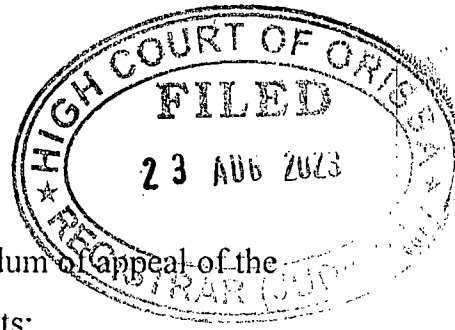
.... PROFORMA RESPONDENT
(Opposite Party No.6 in the writ application)

(The matter out of which this writ appeal arises
was before this Hon'ble Court in W.P.C (OAC)
No.2489/2018, disposed of on 21.09.2022)

Dr.

To

The Hon'ble Chief Justice and His
Lordships companion justices of the High
Court of Orissa.



The humble memorandum of appeal of the
above named Appellants;

Most Respectfully Sheweth:

1. That the appellants challenge herewith the order dated 21.09.2022 passed in W.P.C (OAC) No.2489/2018 by which the Hon'ble Single Judge has directed the appellants to extend all such benefits in favour of the writ petitioner in terms of the directions given by the Courts in the cases namely (i) Nityananda Biswal –Vrs.- State of Odisha & others and (ii) T.A. No.11 of 1993, disposed of on 21.10.1994 (Bhagaban Patnaik –Vrs.- State of Odisha).
2. That, the Respondent No.1 approached the learned Odisha Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 2489(C)/2018 (which was transferred to this Hon'ble Court and renumbered as WPC (OAC) No. 2489/2018) with a prayer for a direction to the appellants to grant him pension and pensionary benefits by counting his entire past service rendered under J.C. and regular establishment.
3. That, the facts giving rise to file the aforesaid writ petition was that the Respondent No.1 entered into service as Chainman on 25.01.1978 under Dy. Director of Consolidation, Balasore. While continuing as such he was regularized in Service of Peon Post in Tahasil Balasore on 10.06.2011 issued by the Collector,

Pr.

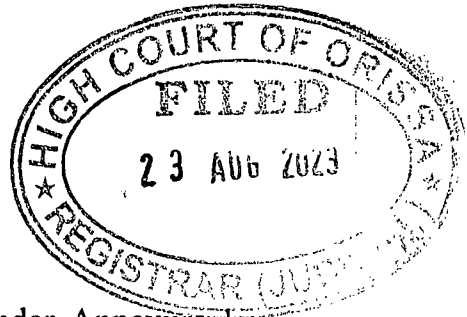
Balasore. Subsequently he retired on 29.02.2016 on attaining the age of superannuation.

4. That it was alleged in the writ petition that after retirement, the Respondent No.1 was granted minimum pension on the basis of the period of service rendered by him in the regular establishment. In other words, the period of service rendered by the applicant in the job contract establishment was not taken into account for the purpose of pension for which the Respondent No.1 filed the aforesaid writ petition with the prayers as aforesaid.

5. That the aforesaid writ application was taken up for hearing before this Hon'ble Court on 21.09.2022 and was disposed of vide order dated 21.09.2022 directing the appellants to extend all such benefits in favour of the writ petitioner in terms of the judgment about which it has been stated in the preceding paragraphs. The copy of the order dated 21.09.2022 passed in W.P.C (OAC) No.2489/2018 is filed herewith as Annexure-1.

Pr.

Being aggrieved by the judgment and order dated 21.09.2022 passed in W.P.C (OAC) No.2489/2018 under Annexure-1 by the Hon'ble Single Judge, the appellants beg to prefer this Appeal on the following grounds amongst others;



GROUNDS

- (A) For that the impugned order under Annexure-1 is wrong, illegal, erroneous and has been passed in contravention of the provisions of OCS (Pension) Rules, 1992.
- (B) For that the Hon'ble Single Judge while passing the impugned order under Annexure-1 though has noticed the judgment rendered by a Division bench of this Hon'ble Court in OJC No.2147 of 1991 decided on 24.3.1992, yet was completely oblivious of the directions contained therein. It was specifically held in O.J.C. No.2147 of 1991 (Settlement Class-IV Job Contract Employees Union, Balasore-Mayurbhanj District -Vrs.- State of Odisha & others) that for the purpose of calculating the pensionary benefits so much of their earlier service period shall be reckoned so as to make them eligible for pension. These directions contained in O.J.C. No.2147 of 1991 was completely lost sight of by the Hon'ble Single Judge while passing the impugned order. Therefore, the impugned order is vulnerable and is liable to be set aside.
- (C) For that much reliance has been placed by the Hon'ble Single Judge in the impugned judgment under Annexure-1 to the directions contained in the case of Nityananda Biswal and accordingly

Bm .

the impugned order has been passed placing reliance upon the same. Inasmuch as the Hon'ble Single Judge was of the view that the judgment in Nityananda Biswal's case having been upheld by the Apex Court, the same was the settled position of law and accordingly the impugned directions have been passed. True it is the judgment in Nityananda Biswal's case was upheld by the Apex Court in Special Leave to Appeal (C) CC No.12573 of 2015. But nonetheless the SLP so filed by the State Government was dismissed at the stage of admission with the following orders :

"The Special Leave Petition is dismissed both on the ground of Limitation and merits."

In view of the aforesaid judgment in Nityananda Biswal's case, the Hon'ble Single Judge while disposing of W.P.C (OAC) No.2489/2018 has placed reliance upon the same and has disposed of the writ application vide order dated 21.09.2022 with the directions as aforesaid.

Sm

As a matter of fact the Hon'ble Supreme Court in a very recent pronouncement in the case of State of Odisha & others -Vrs.- Sulekh Chandra Pradhan reported in AIR 2022 SC 2030 has held that mere dismissal of the Special

Leave Petition would not mean that the view of the High Court has been approved by the Supreme Court. In such view of the matter, the Hon'ble Single Judge has clearly erred in law in placing reliance on the judgment in the case of Nityananda Biswal. Therefore, it is respectfully submitted that the dismissal of the special leave petition filed by the State Government would not necessarily mean that the judgment rendered by this Hon'ble Court in W.P.(C) No.14244 of 2006 is the correct position of law. Be it stated that W.P.(C) No.14244 of 2006 was filed challenging the judgment of the learned Tribunal in O.A. No.3020(C) of 2003 (Nityananda Biswal) and the writ application having been dismissed on 9.4.2014, the Special Leave Petition as aforesaid was filed before the Apex Court which came to be dismissed by order dated 13.7.2015 which has been quoted hereinabove. But in view of the judgment of the Hon'ble Apex Court in Sulekha Pradhan's case, mere dismissal of the SLP filed by the State do not lay down that the view of the High Court has been approved by the Supreme Court. In such view of the matter, the impugned judgment is unsustainable and is liable to be set aside.

- (D) For that it is further respectfully submitted that while deciding W.P.(C) No.14244 of 2006, this

Hon'ble Court has not taken note of the earlier judgment of this Hon'ble Court in O.J.C. No.2147 of 1991, decided on 24.3.1992 and this was so held by the another bench of this Hon'ble Court while deciding W.P.(C) No.11503 of 2003, decided on 7.2.2019. While disposing of W.P.(C) No.11503 of 2003, it was held

"In our considered opinion, the earlier judgment which is well-reasoned, force the field as the subsequent decision in W.P.(C) No.14244 of 2006 has not referred to the same. Opposite parties will be given benefit only on the basis of the earlier division bench judgment in OJC No.2147 of 1991 decided on 24.3.1992 thereby the past period of service of the opposite parties which is required only to make them eligible for pension shall be taken into consideration."

In view of the above, the conclusion is inescapable that the decision of this Hon'ble Court in W.P.(C) No.14244 of 2006 is no more the good law and cannot be pressed into service as has been done by the Hon'ble Single Judge. Therefore, the Hon'ble Single Judge has completely erred in law in passing the impugned order and as such the same is liable to be set aside.

- Bm.*
- (E) For that the impugned order under Annexure-1 has taken note of the order passed in T.A. No.11 of 1993 decided by the erstwhile Odisha Administrative Tribunal on 21.10.1994

(Bhagaban Patnaik –Vrs.- State of Odisha) the SLP filed thereunder by the State in SLP(C) No.13916 of 1995 also came to be dismissed on 17.7.1995. Therefore, reliance has also been placed on the same in the impugned judgment. This approach on the part of the Hon'ble Single Judge is equally erroneous inasmuch as the judgment rendered in T.A. No.11 of 1993 has taken into account the Odisha Pension Rules, 1977 and the employee retired from Government service on 31.8.1988. Therefore, the pensionary benefits due and admissible to the petitioner in T.A. No.11 of 1993 was governed under 1977 Rules. On the contrary the petitioner in the present case retired from Government service on 28.02.2013 by which time 1977 Rules were repealed and OCS (Pension) Rules, 1992 was in place which came into force w.e.f. 1.4.1992. Therefore, the pension of the Respondent is to be governed 1992 Rules. The judgment in T.A. No.11 of 1993 having been decided under the repealed Rules, the same has no application to the facts of the present case. In such view of the matter, the Hon'ble Single Judge has completely erred in law in placing reliance upon the same which vitiates the impugned judgment.

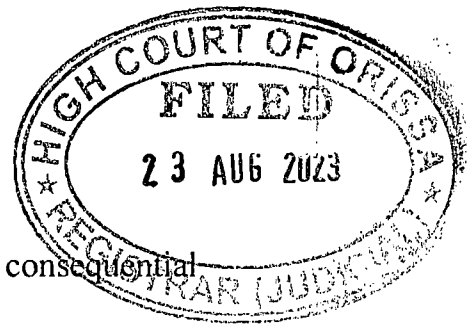
- (F) For that the Hon'ble Single Judge has failed to take note of the statutory provision contained in

Sub-rule (6) of Rule-18 of the OCS (Pension) Rules which was inserted to the Rules by virtue of an amendment w.e.f. 1.9.2001. Sub-rule (6) of Rule-18 of the Rules reads as follows:-

“18(6) Notwithstanding anything contained in Clauses (i) and (iii) of Sub-rule (2), a person who is initially appointed in a job contract establishment and is subsequently brought over to the post created under regular/pensionable establishment, so much of his job contract service period shall be added to the period of his qualifying service in regular establishment and would render him eligible for pension.”

The aforesaid statutory provision has not at all been noticed by the Hon'ble Single Judge while passing the impugned order which is another facet of illegality. Be it stated that the impugned direction is contrary to the prevailing law and hence, the same is unsustainable.

- Br.
- (G) For that undisputedly the writ petitioner is in receipt of the minimum pension. It is submitted that in view of the above, only that period of service which makes the writ petitioner eligible for pension has been taken into account towards qualifying service so as to make the writ petitioner eligible for minimum pension. The residual service in the job contract establishment is not liable to be taken into account for the



purpose of qualifying service and consequential grant of full pension.

- (H) For that the impugned order is otherwise bad in law and is liable to be set aside.

PRAYER

Under these circumstances the Appellants most humbly pray that this Hon'ble Court be graciously pleased to Admit this Appeal, Call for the Records and after hearing the parties be pleased to set aside the impugned order dated 21.09.2022 passed in W.P.C (OAC) No.2489/2018 under Annexure-1;

And for this act of kindness the Appellants shall as in duty bound ever pray.

By the Appellants through

Cuttack

Date: 28/9/23

Addl. Government Advocate

CERTIFICATE

Certified that the grounds set forth above are good grounds to challenge and I undertake to support the same at the time of hearing.

Further certified that Cartridge papers are not available.

(PRADEEP KUMAR ROUT)
ADDL. GOVT. ADVOCATE
Enrolment No. O-758/1989
Mobile No. 7978898320

-12-

IN THE STATE ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH
CUTTACK

O.A. No. 2489(C)/2018

In the matter of:

An application under section 19 of the O.A.T. Act, 1985;

AND

In the matter of:

Golak Bihari Dey, aged about 63 years,

S/O. Late Bishnupada Dey,

At: Damodarpur, P.O.- Barabati,

Via.- Motiganj, Dist. Balasore,

Retd. Peon of Balasore Tahasil under

Collectorate Balasore, At/P.O./Dist.-Balasore.

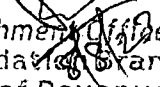
.....Applicant.

Versus

1. State of Orissa represented through its Secretary,
Govt. of Orissa, Revenue & Disaster Management Department,
Secretariate Building, Bhubaneswar,
Dist. Khurda.
2. Director of Land Records, Surveys and Consolidation,
Odisha, Board of Revenue, Cuttack
At/ P.O./Dist: Cuttack.
3. Collector, Balasore,
At/P.O./Dist. -Balasore.
4. Tahasildar, Balasore,
At/P.O./ Dist. -Balasore.
5. Dy. Director of Consolidation, Baripada,
At/P.O.- Baripada, Dist.- Mayurbhanj..
6. Accountant General (A & E),
Orissa, Bhubaneswar, Dist. Khordha.

.....Respondents.

TRUE COPY ATTESTED


Establishment Officer,
Consolidation Branch
Board of Revenue,
Odisha, Cuttack.

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 2489 of 2018

Golak Bihari Dey

.....

Petitioners

Mr. P.K. Mohapatra, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

21.09.2022

Order No.

1

This matter is taken up through hybrid mode.

2. Heard.

3. The petitioner has filed this writ petition seeking direction to the opposite parties to count his past service rendered in the Job-Contract Establishment for the purpose of pension and pensionary benefit within a stipulated period.

4. Learned counsel for the petitioner contended that similar matter had come up before this Court in O.J.C. No. 2405 of 1985 and after constitution of the Odisha Administrative Tribunal the same was transferred to the Tribunal and registered as T.A. No. 11 of 1993. The said case was disposed of on 21.10.1994 by the learned Tribunal by following the decisions of the Apex Court and by giving direction to the competent authority to count the past service rendered by the petitioner in Job Contract Establishment towards pension and pensionary benefit and after such orders were passed, pension of the petitioner was directed to be calculated, drawn and disbursed in his favour within two months from the date of receipt of the copy of the judgment. The order passed in T.A. No. 11 of 1993 was challenged before the Apex Court by the State, which was dismissed vide order dated 17.07.1995.

5. It is further contended that similar matter had also come up

TRUE COPY ATTESTED

Establishment Officer,
Consolidation Branch
Board of Revenue,
Odisha, Cuttack.

before this Court in O.J.C. No. 2147 of 1991, which was decided on 24.03.1992 and this Court has considered the case of Job Contract employees for regularization of service and for pension and pensionary benefits. In O.A. No. 3020 (C) of 2003 (*Nityananda Biswal v. State of Orissa and others*), the Tribunal vide order dated 04.01.2004 also directed that the period of the engagement of the petitioner in job contract establishment should be taken into account as qualifying service and accordingly his pension and other pensionary benefits be revised and paid to the petitioner therein. The order passed in O.A. No. 3020 (C) of 2003 was also challenged by the State before this Court in W.P.(C) No. 14244 of 2006. This Court vide order dated 09.04.2014 dismissed the writ application preferred by the state against the order passed by the Tribunal. The State also preferred Special Leave to Appeal (C) CC No. 12573 of 2015 against the order passed by this Court in W.P.(C) No. 14244 of 2006, which was dismissed by the apex Court vide order dated 13.07.2015.

6. In view of the above settled position of law, nothing remains to be reconsidered by this Court. Accordingly the opposite parties are directed to extend all such benefits in favour of the petitioners in terms of the directions given by the Courts as mentioned above, as expeditiously as possible, preferably within a period of three months from the date of communication of the certified copy/authenticated copy of the order.

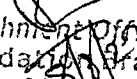
7. With the above observation/direction, the writ petition stands disposed of.

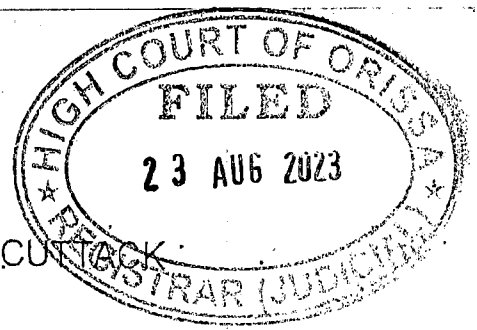
8. Issue urgent certified copy as per rules.

Alok

(DR. B.R. SARANGI, J.)

TRUE COPY ATTESTED


Establishment Officer,
Consolidation Branch
Board of Revenue,
Odisha, Cuttack.



IN THE HIGH COURT OF ODISHA: CUTTACK

WA No. 2103 OF 2023.

State of Orissa & Ors

Appellant/Petitioners

-Versus-

Gopal Bitari Dey & An

Respondent/Opp. Parties

APPEARANCE MEMO

I hereby enter appearance in the above noted case on behalf of
the petitioners/Appellant.

CUTTACK

Dt. 23/9/23



Pr

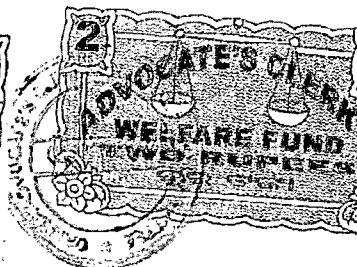
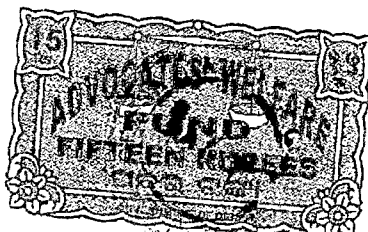
Addl. Govt. Advocate

Addl. Standing Counsel

PRADEEP KU ROUT

EN NO-0-758/1989

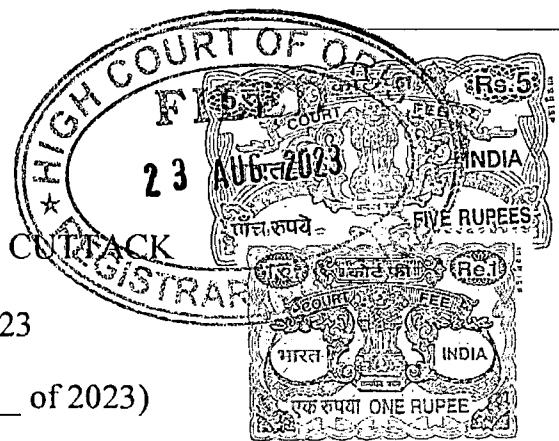
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1
IN THE HIGH COURT OF ORISSA, CUTTACK

I.A. No. 5706 of 2023

(Arising out of W.A. No. 2103 of 2023)



In the matter of :

An application for dispensing under
Rule 27(a) of Chapter- VI of the
Orissa High Court Rules;

And

In the matter of :

State of Odisha & Anr.
...Appellants/Petitioners
-Versus-

Golak Bihari Dey

...Respondent/Opposite Party

To


The Hon'ble Chief Justice and His
Lordships companion justices of the
Hon'ble High Court of Orissa.

The humble petition of the above
named Appellants/petitioners;

Most Respectfully Sheweth:

1. That the Appellants/petitioners have filed the
accompanying writ Appeal challenging the judgment
and order dated 21.09.2022 passed in W.P.C (OAC)
No.2489/2018 under Annexure-1.

2. That for better appreciation of facts, the contents
of the writ appeal filed by the petitioners may kindly


PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No-ON-04/1995

be treated as a part and parcel of this interim application.

3. That the petitioners as appellants challenging the order dated 21.09.2022 under Annexure-I to the writ appeal, passed in W.P.C (OAC) No.2489/2018. The original / certified copy of the said order is not available with the petitioners at present and they shall apply for the same and as soon as receipt of the certified copy of the said order, the same shall be filed before this Hon'ble Court for which the filing of certified copy of the order dated 21.09.2022 under Annexure-I to the writ appeal may kindly be dispensed with for the time being.

PRAYER

It is therefore humbly prayed that in view of the aforesaid facts and circumstances, filing of certified copy of the impugned order dated 21.09.2022 passed in W.P.C (OAC) No.2489/2018 under Annexure-1 to the writ appeal may kindly be dispensed with the time being and the petitioners undertake that the same shall be filed before this Hon'ble Court as soon as obtaining from the Hon'ble Court.

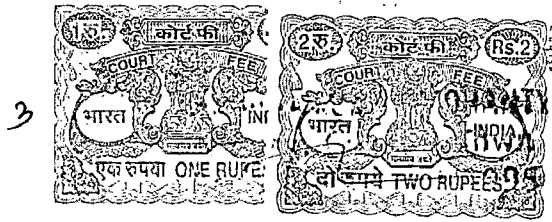
And for this act of kindness, the appellants/ petitioners shall as in duty bound ever pray.

By the appellants/petitioners through
Cuttack

Date 21/8/22

Addl. Government Advocate

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No-ON-04/1995



AFFIDAVIT

I, Sri Tushar Kanta Mohanty, aged about 57 years, S/o. Late Baidyanath Mohanty, presently working as Director, Land Records, Survey & Consolidation, Odisha, Board of Revenue Building, At/P.O.-Chandinichowk, Town/Dist.-Cuttack, do hereby solemnly affirm and state as follows:-

1. That I am the Appellant/Petitioner No.2 in the aforesaid case and I have been duly authorized by the other Appellants/ Petitioners to swear this Affidavit on their behalf.
2. That the facts stated above are true to the best of my knowledge and based on records.

Identified by

Moham Behera

Tushar Kanta Mohanty

— DEPONENT —

Advocate's Clerk, A.G.'s Office

Director,
Land Records Survey & Consolidation
Board of Revenue, Odisha, Cuttack

CERTIFICATE

Certified that Cartridge papers are not available

P.R.

Addl. Government Advocate

PRADEEP KUMAR ROOF

EN NO-0-758/1989

MOB - 7978898320

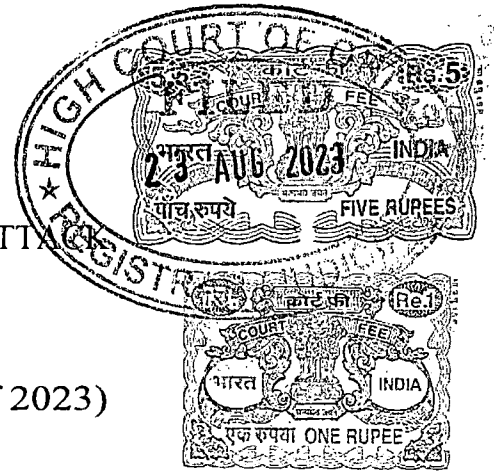
Subscribed, sworn before
me by *T.K. Mohanty*
being identified by *M. Behera* A.G.'s Office
at Cuttack Town Dated *23/08/2023*

23/08/2023
P.X. MOHANTY, Notary, Cuttack Town
Regd. No-ON-04/1995

IN THE HIGH COURT OF ORISSA, CUTTACK

I.A. No. 5707 of 2023

(Arising of W.A. No. 2103 of 2023)



In the matter of :

An application U/s.5 of the
Limitation Act;

And

In the matter of :

State of Odisha & Anr.
...Appellants/Petitioners
-Versus-

Golak Bihari Dey

...Respondent/Opposite Party


To

The Hon'ble Chief Justice and His Lordships
Companion Justices of the Hon'ble High Court
of Orissa.

The humble petition of the
appellants/petitioners named above;

Most Respectfully Sheweth:-

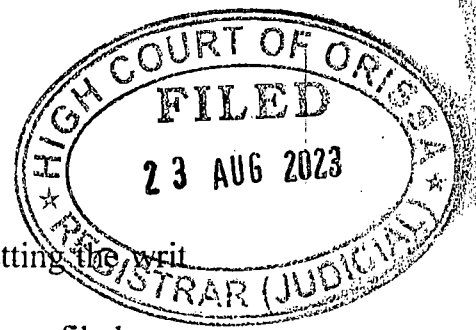
1. That the appellants/petitioners have filed the accompanying writ Appeal challenging the judgment and order dated 21.09.2022 passed in W.P.C (OAC) No.2489/2018 under Annexure-1.
2. That the averments made in the writ appeal may form a part of this application.


PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No-ON-04/1995

3. That the impugned order having been passed on 21.09.2022, the appeal ought to have been filed on or before 20.10.2022. It is respectfully submitted that on receipt of the order under Annexure-1, the Government in Revenue & Disaster Management Department moved the Law Department seeking their views. The Law Department have decided to file Writ Appeal challenging the order under Annexure-1 and accordingly communicated their views to the Revenue & Disaster Management Department to file Writ Appeal. Accordingly, the Government in Revenue & Disaster Management Department vide Letter dated 28.06.2023 authorized the Director, Land Records & Surveys, Board of Revenue, Odisha for filing writ appeal in consultation with the office of the Advocate General, Odisha. The Additional Secretary, Consolidation Wing submitted the proposal along with all the records in the office of the Advocate General for filing writ appeal vide Letter dated 28.07.2023. The learned Advocate General entrusted the file to the Law Officer on 28.07.2023 where after the Writ Appeal was

Bm.

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No-ON-04/1995



prepared and sent for vetting and after vetting the writ
appeal was made ready and is being filed on

.....

4. That the delay caused in filing the writ appeal was neither intentional nor deliberate but due to unavoidable circumstances beyond the reasonable control of the appellants/petitioners.

5. That unless the delay caused in filing the writ appeal is condoned, the appellants/petitioners will be highly prejudiced.

PRAYER

Under these circumstances, the appellants/petitioners most humbly prays that this Hon'ble Court may graciously be pleased to condone the delay caused in filing the Writ Appeal on any terms and conditions as may be deemed fit and proper;

And for this act of kindness, the appellants/petitioners shall as in duty bound ever pray.

By the appellants/Petitioners through

Cuttack

Date : 21/8/23

PR.

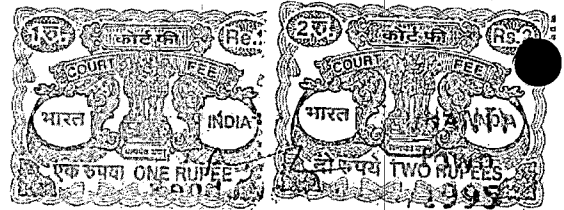
Addl. Government Advocate

M

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No-ON-04/1995

4

AFFIDAVIT



I, Sri Tushar Kanta Mohanty, aged about 57 years, S/o. Late Baidyanath Mohanty, presently working as Director, Land Records, Survey & Consolidation, Odisha, Board of Revenue Building, At/P.O.-Chandinichowk, Town/Dist.-Cuttack, do hereby solemnly affirm and state as follows:-

1. That I am the Appellant/Petitioner No.2 in the aforesaid case and I have been duly authorized by the other Appellants/Petitioners to swear this Affidavit on their behalf.
2. That the facts stated above are true to the best of my knowledge and based on records.

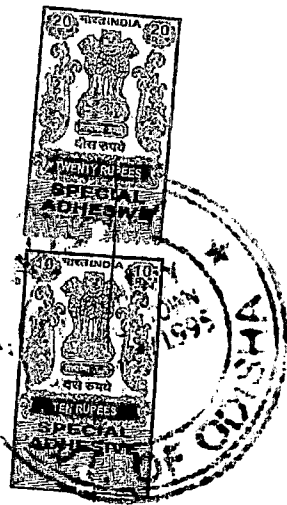
Identified by

Moham Behera
Advocate's Clerk, A.G.'s Office

Tushar Kanta Mohanty
DEPONENT
Director,
Land Records Survey & Consolidation
Board of Revenue, Odisha, Cuttack

CERTIFICATE

Certified that Cartridge papers are not available



Addl. Government Advocate

PRADEEP KU ROOT

ENR No O-758/1989

MOB - 7978890320

A.C. A.G.'s Office

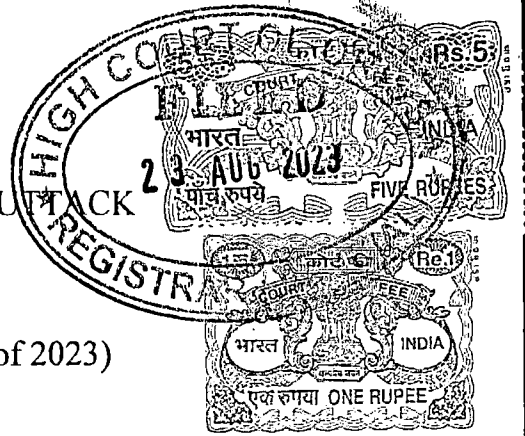
Solemnly sworn before
me by.....*T.K. Mohanty*
Being identified by.....*M. Behera*
at Cuttack Town Dated.....*23/08/2023*

P.K. Mohanty
P.K. MOHANTY, Notary, Cuttack Town
Regd. No. ON-64, 1995

IN THE HIGH COURT OF ORISSA, CUTTACK

I.A. No. 5708 of 2023

(Arising out of W.A. No. 2103 of 2023)



In the matter of :

An application for stay under Rule
27(a) of Chapter- VI of the Orissa
High Court Rules;

And

In the matter of :

State of Odisha & Anr.
...Appellants/Petitioners
-Versus-

Golak Bihari Dey

...Respondent/Opposite Party

To

The Hon'ble Chief Justice and His
Lordships companion justices of the
Hon'ble High Court of Orissa.

The humble petition of the above
named Appellants/petitioners;

Most Respectfully Sheweth:

1. That the Appellants/petitioners have filed the
accompanying writ Appeal challenging the judgment
and order dated 21.09.2022 passed in W.P.C (OAC)
No.2489/2018 under Annexure-1.

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No-ON-04/1995

2

2. That the averments made in the Writ Appeal may form a part of this application.

3. That the Appellants/petitioners have a prima-facie case to succeed and the balance of convenience lies in favour of the Appellants/Petitioners.

4. That unless operation of the order under Annexure-1 dated 21.09.2022 is stayed, the appellants/petitioners will sustain irreparable loss and injury.

PRAYER

Under these circumstances, the appellants/petitioners most humbly pray that this Hon'ble Court be graciously pleased to stay operation of the order under Annexure-1 dated 21.09.2022 passed in W.P.C (OAC) No.2489/2018 pending disposal of the accompanying writ appeal;

And for this act of kindness, the appellants/petitioners shall as in duty bound ever pray.

Br

By the appellants/petitioners through

Cuttack

Date : 28/12

Br

Addl. Government Advocate

PRADIPTA KUMAR MOHANTY
Notary, Cuttack Town
Regd. No-ON-04/1995

1. That I am the Appellant/Petitioner No.2 in the aforesaid case and I have been duly authorized by the other Appellants/Petitioners to swear this Affidavit on their behalf.

Identified by

From your wife

CERTIFICATE

PRADDEEP KU ROUT

EN NO 0-758/1989

MOB - 7978898320

me by..... T.K. Anthony

being identified by..... *M. Behen*

at Cuttack Town Dated.....23/

P.K. MOHANTY, Notary, Cuttack Town

Regd. No-ON-04/1995