

[O. H. C.-97-A]

SURYA NARAYAN PATNAIK,
A.G.A.

In the High Court of Orissa
ORDER SHEET

BUDHIRAM DAS
(Caveator)

BLAPLAW. P. (C) No. _____ of 20 23
WA No. 633/2023

PRINCIPAL SECY, ODISHA, HEALTH AND F.W. DEPT. 8
Versus 1 OHS.

BHAGABAN PRADHAN for Opposite-Party 8

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
			<p>PRESENTED ON 28/03/2023</p> <p>Register and Put up for Orders</p> <p><u>Sm</u> Registrar (Judicial)</p> <p>Mr. Budhiram Das filed caveat no. 17/23 which is Kept below</p> <p><u>28/3/23</u> For SR</p> <p><u>4/3/23</u> <u>SR</u></p>



FC087276

SCANNED



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 633 of 2023

Principal Secretary to Government, ... Appellants
Health and Family Welfare Department,
Bhubaneswar, Dist-Khurda and Others

Mr. Saswat Das, Addl. Govt. Advocate

-versus-

Bhagaban Pradhan and Others ... Respondents

Mr. Budhiram Das, Advocate (Caveator)

CORAM:

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

ORDER

22.10.2024

Order No.

W.A. No.633 of 2023 and I.A. No.1621 of 2023

01. The matter is taken up through Hybrid mode.
2. This application has been filed by the appellants seeking condonation of delay of 186 days in filing the present intra-court appeal.
3. Mr. Budhiram Das, learned counsel has entered appearance on behalf of the respondents No.1 and 2 by way of caveat petition. Let copies of the appeal memo and the application for condonation of delay be served on him within a week.
4. List this matter on 03.12.2024.


(Chakradhari Sharan Singh)
Chief Justice


(Savitri Ratho)
Judge



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 633 of 2023

Principal Secretary to Government, Appellants
Health and Family Welfare
Department, Bhubaneswar, Khurda
and others

Mr. K.C. Kar, Government Advocate
-versus-

Bhagaban Pradhan and others Respondents
Mr. Budhiram Das, Advocate (Caveator)

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

ORDER

03.12.2024

Order No.

02.

I.A. No.1621 of 2023

This matter is taken up through Hybrid mode.

2. Mr. Budhiram Das, learned counsel appearing on behalf of the respondents prays for one week time to file an objection to the application for condonation of delay.
3. List this matter on 10.12.2024. Objection, if any, shall be filed before the said date after serving a copy on Mr. Budhiram Das, learned counsel appearing on behalf of the respondents.
4. Defect pointed out by the S.R. shall be removed by the next date positively.

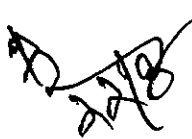

(Chakradhari Sharan Singh)
Chief Justice


(Savitri Ratho)
Judge

IN THE HIGH COURT OF ORISSA

Case No. WA- G 33/2023

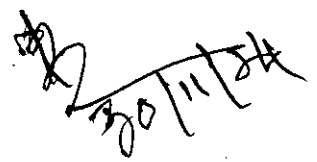
OFFICE NOTES

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 - 1621/23 is at flag 'A' for condonation of delay.</p> <p>ii) Caveat petition - 17/23 is at flag 'C'.</p> <p>iii) Defect No. 57a) not removed as per SR</p> <p>For Orders.</p> <p>Along with wpc (09)-362/17 a disp. of case.</p> <p>Swagatika Subudhi 22.08.24</p> <p>D.B</p> <p></p> <p>Receipt showing service of copies of the appeal memo along with its annexure & all I.A.s on learned counsel for the R-1 & 2 is received.</p> <p><u>S. Subudhi</u> 30.11.24</p>

IN THE HIGH COURT OF ORISSA

Case No. WA-633/23

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
01.	22.10.24	<p>i) I.A. No.:- 1621/23 is at Flag 'A' for further orders regarding condonation of delay.</p> <p>ii) Caveat Petition - 17/23 is at Flag 'C'.</p> <p>iii) Defect no.:- 5(a) is not removed as per the S.R.</p> <p style="text-align: center;"><u>For Orders</u></p> <p>Along with wpc(OA)-362/17 (Disp. of case).</p> <p style="text-align: center;"><u>Adin. to :- 03.12.24,</u></p> <p>Swagatika Subudhi 30.11.24</p> <p style="text-align: right;">D.B.</p> <p style="text-align: center;"></p>

IN THE HIGH COURT OF ORISSA

Case No. WA-633/23

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
02.	03.12.24	<p>i) L.A. No.- 1621/23 is at Flag 'A' for further orders regarding condonation of delay.</p> <p>ii) Caveat petition - 17/23 is at Flag 'c'.</p> <p>iii) Objection to the application for condonation of delay is not filed yet (Receipt showing service of copy of the IA is already filed).</p> <p>iv) Defect no.- 5(a) is not removed as per the S.R. yet.</p> <p><u>For Orders</u></p> <p>Along with wpc(OA)-362/17 (Disp. of case). <u>A din. to :- 10.12.24</u></p> <p>Swagatika Subudhi 09.12.24</p> <p>D.B.</p> <p><u>Bhand</u> 9/12/24</p>



ORISSA HIGH COURT
FILING ACKNOWLEDGEMENT SLIP

CNR

Filing No

Date and Time

Misc Case/IA

Petitioner Name

Petitioner Advocate Name

Respondents Name

Respondents Advocate

Amount

Police Station

FIR

ODHC010235402023

WA/0000633/2023

28/03/2023-12:22:43

1621/2023,1622/2023

PRINCIPAL SECY, ODISHA, HEALTH AND F.W.

SURYA NARAYAN PATNAIK, A.G.A.

BHAGABAN PRADHAN



Tuesday 28th of March 2023 02:38:28 PM

STAMP REPORT

CASE NO.....

LIMITATION

Date of Judgement Awards 24.8.22
Date of Valid Presentation 28.3.23
Total Period Occupied 246 day
Limitation 30 day
Certified Copy Period 6 day
Delay in filing 186 day

1. In timeExpired on

2. Period of delay 186 days ; 9/1621/23 bar

3. Court Fee

4. Authentication fee due on the Rs 12/- paid Condensation & Entry delay
(a) Copy of Trial Court Judgement
Rs..... Decree Rs.....

(b) Appellate Court Judgement Rs.....
Decree Rs.....

5. (a) Copy of Trial Court Judgement/Order

(b) Appellate Court/Revisional Order
Judgement

(c) Second Copy Petition

(d) Receipt showing copy on A.G.

(e) Vakalatnama properly stamped,
Executed and accepted

6. (a) Cause Title

(b) Provision of Law

7. Code

8. Single Judge/Division Bench Case

9. Other Defects

C-copy made
24.8.22 not nil
only 2 copies left
Amemo li Caveat Rekt
Case is 30/1/23
Postal not his
Vinayaka-Inade

STAMP REPORTER

25.4.23

1. RFA/RSA/PAO/SAC/LPA/SPA/CRP/Review pet/O. Ref/EXFA/EXSA/SM/APPT.
P(c) WP (c)/WA/SCLP/Co. App/Co. Pet/Co. Case/Co. App/Bkg. P/Mat. A/Mat.
Ref/RP (FAMCT) Test Case / Intest. Case/L.A. Ref/RCPA/L.A. RCPA/RE
Rev/MAC/MAC APP/EL Pet/ELAPP/Arb. P/Arb. A/Arb. Insurance Ref/Conf.
Cas(c)/Coud. App (c) / MFA (name of the Act)/MSA/SP. JO (name of the Act) On
A/Cri. Rev/CKI. M. C/ BLAP/Cal. MAPPI/WP (or) CUSREF-STREV.

Case Type WA No 633/2023 Date of Regn.

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

Health & F.W. Department

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

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

3

012

010

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]

An Appeal under clause 10

5. Section/Sub-Section Involved

6. Rules Involved

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:

10. Point of law involved in the matter

An Appeal challenging the order passed by the Hon.ble

Date 27/8/23

Shree Nand Lal
Signature of the Advocate
0-1738/1992
Yrs:- 9861314133

Conceded
WA-17/23

(R)

High Court of Orissa Acknowledgement



CNR : ODHC010235402023

Efiling No : AOD20220001895C202300048

Filing No. : WA/633/2023

Date of Filing : 28-03-2023

Petitioner : PRINCIPAL SECY, ODISHA, HEALTH AND F.W. Time of Filing : 11:58:18

Petitioners : SURYA NARAYAN PATNAIK, A.G.A. Respondent : BHAGABAN
Advocate : PRADHAN

Amount : 0.00



[Print](#)

IN THE HIGH COURT OF ORISSA: CUTTACK.

W.A. NO. 633 /2023

(Arising out of WPC(OA) No.362/2017

Disposed of on 24.08.2022)

CODE - 310200

State of Odisha represented through
the Commissioner-cum- Secretary to Govt. of
Odisha, Health & F.W. Department,
LokSevaBhawan, Bhubaneswar, Dist: Khordha &
3 others

.....Appellants.

-Versus-

Shri Bhagaban Pradhan, ^{Another.}.....Respondent S

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Sl. No.	Description of the Documents	Pages
1.	SYNOPSIS	A - B
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3.	Writ Appeal	1 - 14
4.	Annexure- 1	
	Copy of order dtd. 24.08.2022	15 - 19 (Q)
5.	Appearance Memo	

Cuttack

Dated: 24.03.2023

Additional Government Advocate

MPL: - 9861314133

0-1738/1999

A.

IN THE HIGH COURT OF ORISSA: CUTTACK

W.A. NO. 633 /2023.

(For Oct 06 2023, GA 362/2012
Proposed 24.8.22) Code: 310200

State of Odisha represented through,
Commissioner-cum- Secretary,
Health & F.W. Department, Odisha,
Bhubaneswar, Dist: Khordha. *LA not Mrs*

..... *Appellants*

-Vrs-

Bhagaban Pradhan *LA not Mrs*Respondents .

SYPNOSIS

The appellants have filed this Writ Appeal challenging erroneous order dated 24.08.2022 passed by the learned Single Judge wherein this Hon'ble Court while setting aside the rejection order passed by the Appellant No.1 declaring the claim of regularisation and consequential and service benefits of the respondent to be devoid of any merit as much as directed the appellants to consider the case of the petitioner for regularisation as per resolution issued by the G.A. Department on 17.09.2013 and 16.01.2014 as well as in the light of the order passed by the Hon'ble Court in the case of Patitapaban Dutta Das Vrs. State of Odisha and others. Hon'ble Court further directed the O.P. No.3 to take

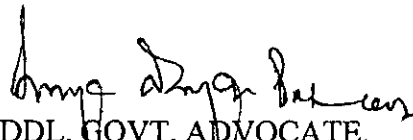
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- B -

steps for absorbing the petitioner in the regular establishment and such exercise shall be completed by absorbing the petitioner in the regular establishment within a period of four months from the date of receipt of this order.

The Hon'ble Single Judge disposed of the writ petition at the stage of admission and without giving any opportunity to the present appellants to place their stand. Further the Hon'ble Single judge though set aside the order passed by appellant No.1 which is an exhaustive speaking order, did not whisper anything in order dated 24.08.2022 any reason indicating non sustainability of such order. Further the grievance of the respondent has directed to be considered in the light of the principle decided in other case whereas no discussion has been made how the two cases are factually similar in order to invoke the principle decided in other case. The approach of the respondent in claiming his regularisation along with the service and financial benefits etc., therefore the decision dated 24.08.2022 cannot be implemented. Therefore, the writ appeal has been preferred after getting concurrence from the Law Department.

Date: 27.03.2023
Place: CR


ADDL. GOVT. ADVOCATE.
ENR NO 1738/97
m/ph. 9861314133

LIST OF DATES

Sl. No.	Date	Particulars
1	26.12.2007	Respondent No.2 joined as MPHWM on contractual basis.
2	09.01.2008	The respondent no.1 was appointed as MPHWM on contractual basis.
3	17.09.2013	State of Odisha, G.A. Department issued a resolution describing the method of regularisation of contractual employees
4	10.04.2015	Appellant No.3 submitted the proposal for regularisation of contractual employees working as MPHWM on completion of six years of service
5	09.07.2015	Appellant No.3 further forwarded the proposal of regularisation of contractual MPHWM to the Appellant No.2
6	13.11.2015	The representation submitted by the respondent was forwarded to the appellant no.1 for consideration.
7	26.02.2017	Respondents filed O.A. No. 362/2017 before learned O.A.T., Bhubaneswar, which has been renumbered as WPC(OA) No. 362/2017 after abolition of the Tribunal
8	24.08.2022	Hon'ble Single Bench disposed of the said writ petition.

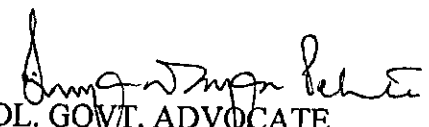
Set-aw

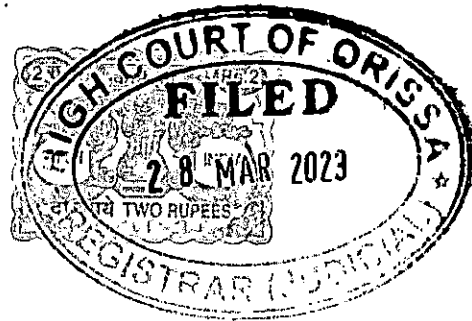
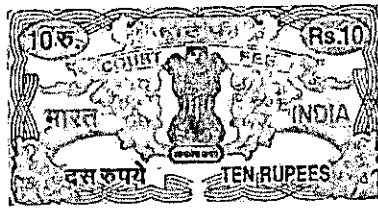
- D .

9	12.12.2022	Appellant No.1 authorised Appellant No.3 to contact the Office of the A.FG. Odisha for filing of writ appeal against the order dated 24.08.2022.
10	07.02.2023	Appellant No.3 contacted the Office of the learned Advocate General and submitted the relevant required documents, which was received by the Office of the Advocate General on 01.03.2023.
11		Filing of the present Writ Appeal.

Date: 24.03.2023

Place: Cuttack.


 ADDL. GOVT. ADVOCATE.
 ENR NO 1438197
 M/PN-986/314133



IN THE HIGH COURT OF ORISSA: CUTTACK.

W.A. NO. 683 /2023.

(Arising out of WPC (M) No.362 of 2017,
Disposed of on 24.08.2022) Code - 310200.

IN THE MATTER OF:

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

AND

IN THE MATTER OF :

1. Principal Secretary to Govt. of Odisha,
Health & Family Welfare Department,
Lok Seva Bhawan, Bhubaneswar, Dist:
Khordha.
2. Director, Health Services. Odisha,
Bhubaneswar, Dist: Khordha.
3. Chief District Medical Officer, Khordha,
At/Po/Dist: Khordha.
4. Collector & District Magistrate, Khordha,
At/Po/Dist: Khordha.

(Opposite Party No. 1 to 4 in the writ petition)

... Appellants.

-Versus-

1. Bhagaban Pradhan, aged about 56 years, Son of late.
Dhobali Pradhan, At/Po: Kuha, Old Town,
Bhubaneswar, Dist: Khordha, at present serving as

Atalendu Rayan

Presented on. 28/3/2023
SM
Registrar (Judicial)

[Signature]
(SUREYA NARAYAN DATTA) ^{Adv}
EMR NO 1738 /97
Mph. 9861314133.

MPHW(Male), CHC, Balkati, under the CDMO, Khordha.

2. Raghunath Pradhan, aged about 44 years, son of late Dhobali Pradhan, At/Po: Kuha, Old Town, Bhubaneswar, Dist: Khordha, at present serving as MPHW(Male), CHC, Balkati, under the CDMO, Khordha.

(Petitioners in the writ petition)

.... Respondents

3. Deepak Kumar Behera, MPHW(M), C/o. Medical Officer, I/c, CHC, Manijanga, At/Po: Manijanga, Dist: Khordha.

(The matter out of which, this writ appeal arises was before this Hon'ble Court in W.P.(C) No.362 of 2017, disposed of on 24.08.2022)

To

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

The humble memorandum of appeal of the above named appellants;

MOST RESPECTFULLY SHEWETH:


1. The respondents of the present appeal being the petitioners before the learned State Administrative Tribunal, Bhubaneswar had filed an application under Section 19 of the Administrative Tribunal's Act, 1985 with the following prayers:-

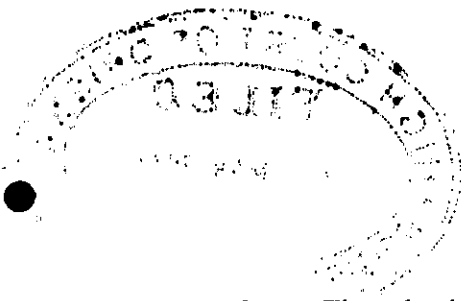


2. That the appellants being the respondent-Opp. Parties before the learned State Administrative Tribunal are aggrieved with the final decision dated 24.08.2022 passed by Hon'ble Single Judge of this Hon'ble Court in WPC (OA) No.362/2017 filed by the present respondents before the learned Tribunal and was re-numbered with the aforesaid case number after transfer of the case from learned Tribunal to this Hon'ble Court due to abolition of the SAT. In the present case Hon'ble Single Judge has misinterpreted the fact as well as the settlement position of law on reaching to a conclusion with the entitlement of the present respondent while disposing the writ petition on 24.08.2022 with the following orders:

"Since in the present case, the petitioners have already completed more than 14 years of service on contractual basis as multipurpose Health worker (Male), the Opposite Parties more particularly the O.P. No.3 is directed to take steps for absorbing the petitioners in the regular establishment. Such exercise shall be completed by absorbing the petitioners in the regular establishment within a period of 4 months from the date of receipt of the order".

Certified copy of the order dated 24.08.2022 is enclosed herewith and marked as ANNEXURE-1.





-4-

2. That the brief facts as outlined by the present respondents in the capacity of petitioners before the Hon'ble Single Judge are as follows:-

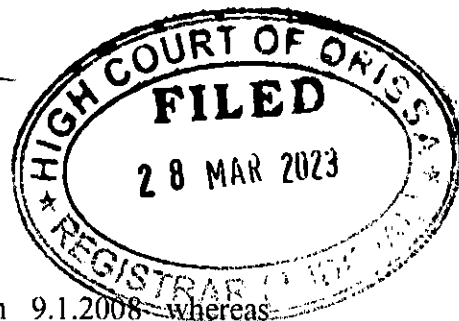
(a) The respondents were initially appointed as paramedical workers under the National Leprosy Eradication Project (NLEP) being sponsored by the District Technical Support Team of Lepra India Society. On completion of such project the respondents were retrenched.

(b) Taking into consideration the service experience of the employees like the respondents Govt. in Health and Family Welfare Department as well as Director, Health Services, Odisha, Bhubaneswar issued instruction to different CDMOs wherein it was instructed to give preference in selection for the post of MPHW, Male and female in different district as they have worked in the health sector in the State and have gained experience in dealing with public health problems. Accordingly the CDMOs were also requested to carry out the above order during selection process and to submit the list of candidates so selected to the office of appellant no.1 & 2.

(c) Considering the aforesaid instruction of the appellant no.1 & 2 the respondents were appointed as Multipurpose Health Worker (M) on contractual basis

Arden Singh

Arden Singh



and respondent no.1 joined on 9.1.2008 whereas
respondent joined on 26.12.2007 and they were
allowed to continue.

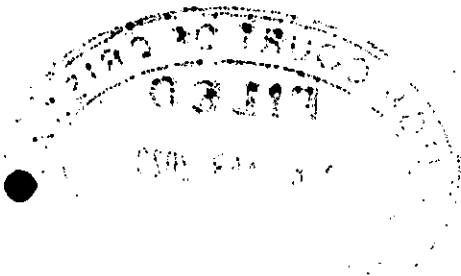
(d) The respondents have been discriminated in terms of the regularization process while person similarly situated i.e. retrenched candidates from NLEP Scheme and got appointed as MPWH(M) having been regularized under CDMO, Sundargarh and Kandhamal the respondents are left out only because they are continuing under CDMO, Khordha. The authorities have regularized the service of similarly situated employees in Kandhamal as well as Sundergarh district following the resolution of GA Department dt.17.09.2013 and basing upon a decision of High Power Committee after successful completion of six years of contractual service.

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(e) The respondents have further urged that though they have completed more than 10 years of contractual service and their names appeared in the Gradation List of MPHWH(M) of Khordha district with an objective to regularize the employees by absorbing them under CDMO Khordha but their cases have not been considered till date.

(f) The respondents submitted representation before the authorities for considering their regularization claiming to satisfy all the conditions in terms of GA

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Department resolution dt.17.09.2013 and such representation was forwarded by the appellant no.2 vide letter dated 13.11.2015 to appellant no.1 for favourable consideration.

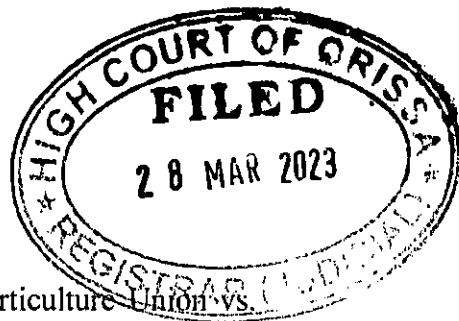
3. That, the present appellants who are none other than the opposite parties in the writ petition have filed a counter wherein by disputing the averments of the respondents they took the following stand to justify their prayer to dismiss the claim of the respondent which are as follows:

(a) The respondents are admittedly retrenched employee of NLEP Scheme. But without following any due procedure of selection as decided by appellant no.1 & 2 where a scope of getting preference in the selection process was there for such retrenched employees like the respondents the then CDMO, Khordha has engaged the respondents without following any procedure of selection rather by treating them as retrenched employees of NLEP Scheme. Accordingly the GA Dept. resolution dated 17.09.2013 could not be utilized in respect of such respondent for their regular absorption.

(b) The appellants have relied upon the principles decided by this Hon'ble Court as well as by the Hon'ble Supreme Court like State of Orissa Vs. Mamata Mohanty and another reported in (2011) 3

Admittedly

Sumedh



SCC 436, Delhi Development Horticulture Union vs. Delhi Admn. & Ors reported in AIR 1992 SC 789, Excise Superintendent Malkapatnama, Krishna Dist. A.P. Vs. KBN Bisweswar Rao and others reported in (1996) 6 SCC 216 and many other cases.

(c) The appellants have justified their ground on the basis of settled legal proposition that no person can even appointed on temporary or adhoc basis without following due procedure of law including involving and element of selection otherwise it will violates the mandate of Article 14 & 16 of the Constitution of India by depriving the candidates from being considered even though eligible for post. For a valid and legal appointment mandatory compliance said constitutional required is to be fulfilled.

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(d) In absence of any policy decision of the Govt the claim of the respondents for regularization is not maintainable and acceptable.

(e) The examples cited by the respondents of granting benefit of regularization in other district and thereby bring out the allegation of discrimination is not acceptable as the appellant no.3 has strictly followed the rules and regulations invoked with respect to regularization and the persons are not similarly situated.

Handwritten signature/initials

(f) It is further informed here that the detailed Data Sheet of not only the respondents but also of others are already provided to Govt. i.e. appellant no.1 for the purpose of regularization etc. as per letter dated 21.12.2016. It is further clarified by the appellants that the scheme which is relied upon by the respondents to get the benefit of regularization strictly demands three conditions which includes that their initial engagement should have been by following due procedure of law and at the time of selection the provision of act and rules should have been followed. The respondents have made a claim for regularization in terms of G.A. Dept. letter dated 17.09.2013 and as such they cannot claim regularization in service without satisfying the criteria prescribed therein.

(g) The Hon'ble Single Judge took up this matter for final hearing on 24.08.2022 and found that the present respondents are covered by the GA Dept. resolution dt.17.09.2013 & 16.01.2014 for the purpose of their regularization in service. Hon'ble Single Judge further held that the grievance of the respondents are squarely covered by the principle decided in the case of Patitapaban Dutta Dash Vs. State of Odisha and others where a direction has been given to regularize the service of the petitioners in that case in completion of six years of contractual appointment. On the aforesaid backgrounds of fact and the principle led down in

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Arden Singh

Patitapaban Dutta Das case Supra Hon'ble Single Judge held that the respondents having been completed more than 14 years of service on contractual service as MPHWM the appellant no.3 has been directed to take steps for absorbing the respondents in the regular establishment within a period of four months.

Being aggrieved by the order dated 24.08.2022 passed by the Hon'ble Single Judge in W.P.(C) ^(off) No.362 of 2017 under Annexure-1, the appellants beg to prefer this Appeal on the following amongst other;

GROUND

A) For that the Hon'ble Single Judge failed to appreciate that the petitioners have made false submission in his writ petition that there was a direction by O.P. No.1 & 2 to absorb them in the post of MPHWM as a retrenched NELP Paramedical worker. On bare perusal of the letter under reference dated 31.10.2007 & 7.12.2007 it was urged by the appellant no.1 & 2 that the retrenched paramedical NELP scheme workers are to get preference at the time of selection for the post of MPHWM or F. There is no direction to the concerned CDMOs to engage the retrenched NELP scheme worker without following the due procedure of selection. Hon'ble Single Judge failed to appreciate that the orders of appointment indicates that the respondent have been engaged on contractual

Secy
4/11/22

Adler
24/8/22

basis by referring to the aforesaid two letter of appellant no.1 & 2 but without following any procedure of selection as much as without applying the provision of ORV Act and Rules. In view of these the initial engagement of the respondents are in without following any selection process so also in deviation to the Govt. decision as referred above.

B) For that the Hon'ble Single further failed to appreciate that no separate scheme has been formulated by the Govt. to regularize such retrenched NLEP scheme employees for which the respondent as well as Hon'ble Single Judge appreciated the fact that the only scheme in vogue to decide the regularization of the respondents are G.A. Dept. resolution dated 17.09.2013 read with the resolution dated 16.01.2014. Both respondents have relied upon these resolution and their prayer also reflect to consider their cases in the light of such regularization scheme introduced by Govt. as much as the Hon'ble Single Judge has also made an observation that the grievance of the respondents are covered under these regularization scheme. Hon'ble Single Judge committed an error in holding that the respondents are to be regularized because for continuing for a period of 14 years in such post and these resolutions are to be followed to regularized the respondents but completely ignored the argument of the present appellants that non of the

AA Den nmp

Dec 03
AA



respondents have satisfied the criteria led down in the said resolution which are mandatory in nature for considering the regularization of an employee continuing on contractual basis.

C) For that Hon'ble Single Judge failed to comment any where the manner in which the present respondents are eligible and covered under the regularization scheme as per G.A. Department Resolution dated 17.09.2013 & 16.01.2014.

D) For that Hon'ble Single Judge failed to comment anything on the different case laws relied upon by the appellants as reflected in their counter affidavit where the basic principle of filling a public post is by adopting the principle in vogue by conducting a fair procedure of selection allowing all the eligible applicants to participate in the selection process. The Hon'ble Single Judge did not comment anything to get rid of such settled position of law while declaring the respondents to be eligible and directing the appellants to absorb such respondents on regular basis.

E) For that the principle decided in Patitapaban Dutta Das case under some peculiar fact and circumstance of that case has no bearing to the present case and to the factual back ground of the present respondents. Hon'ble Single Judge though observed that the principle in such Patitapaban Dutta Das case is

Signature
4/6/23

also applicable to the case of respondents but completely failed to analyze the situation of the background facts in both the cases so as to draw the similarity on facts and circumstances of both the cases as much as to apply the principle decided in one case to other. Moreover the principle decided in Patitaban Dutta Das case cannot be treated as a settled position of law as the state has approached challenging the decision of Hon'ble Single Judge in W.A. No..... which is still subjudice. Under such circumstances ignoring the principle decided by Hon'ble Apex Court with respect to public employment and vis-à-vis regularization in service rather by relying a decision which is a subject matter of adjudication in a writ appeal before this Hon'ble Court cannot be treated as sustainable action by the Hon'ble Single Judge and consequentially the decision with direction to absorb the respondents in the regular post is not sustainable in the eye of law.

4. That, the Appellant has no other efficacious alternative remedy available, hence invoke the Appellate jurisdiction of this Hon'ble Court under Article-4 of the Orissa High Court order, 1948 read with Clause-10 of the Letters patent constituting the High Court of Judicature at Party and Rule 6 of Chapter-III of the Rules of the High Court of Orissa, 1948. The Appeal is made bonafide.

Adm. Nym.
Adm. Nym.

Adm. Nym.
Adm. Nym.

5. That, the aforesaid submissions are made without prejudice to one another.

6. That, the Appellant relies upon the documents, a list whereof is annexed hereto.

7. That, the Appellant has not made any other Petition or Appeal either in this Hon'ble Court or in the Hon'ble Supreme Court of India in respect of the subject matter of this petition. This Hon'ble Court has jurisdiction to try and entertain the present Appeal.

8. That, the Appellant craves leave to add or alter or amend or delete any of the grounds of this memo of Appeal at the time of hearing of Appeal.

P R A Y E R

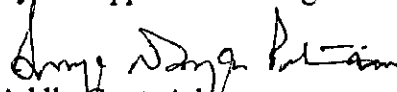
Under these circumstances the Appellants most humbly pray that this Hon'ble Court be graciously pleased to admit this appeal, call for the records and after hearing the parties be pleased to set aside the impugned order dated 24.08.2022 passed in W.P.(C) No.362 of 2017.

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

Cuttack

Date:

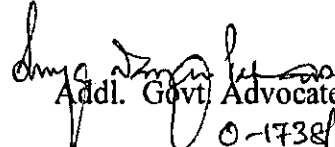
By the Appellants through


Addl. Govt. Advocate

CERTIFICATE

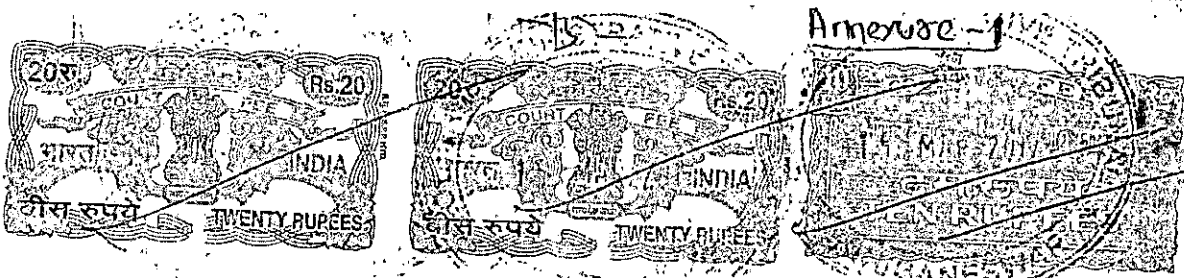
Certified that the grounds set forth above are good grounds to challenge and I undertake to support the same at the time of hearing.

Further certified that Cartridge papers are not available.


Addl. Govt. Advocate
O-1738/1997
M/Ph. 9861314133

Adrian Rogers

2850-1
2-8/10/18
181-23



IN THE STATE ADMINISTRATIVE TRIBUNAL

ODISHA, BHUBANESWAR

O.A.No- 362/2017

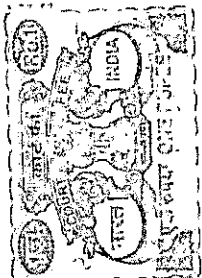
Annexure-1
738/17 CPT
153
PP32/17

In the matter of-

An application U/S-19 of Administrative Tribunal's Act 1985.

AND

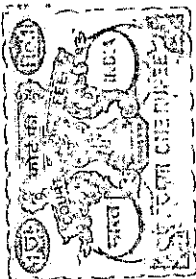
In the matter of-



1. **Bhagaban Pradhan**, aged about-50 years, S/o-Late Dhobali Pradhan, resident of At/Po-Kuha, Old Town, Bhubaneswar, Dist.-Khurda at present serving as MPHWMale), CHC, Balkati, under the CDMO Khurda, Dist. Khurda,
2. **Raghunath Pradhan**, aged about-38 years, S/o-Late Dhobali Pradhan, resident of At/Po-Kuha, Old Town, Bhubaneswar, Dist.-Khurda at present serving as MPHWMale), Zonal Dispensary Kalpana area (District Malaria Officer), under the CDMO Khurda, Dist. Khurda.....

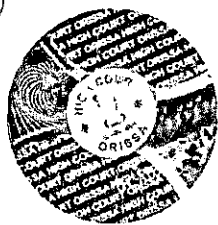
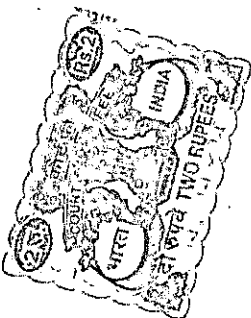
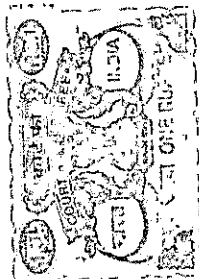
Applicants

---Versus---



1. Commissioner-cum-Secretary, Health & Family Welfare Department, Govt. of Odisha, Odisha Secretariat, Bhubaneswar, Dist-Khurda,
2. Director, Health Services, Odisha, Bhubaneswar, Dist. Khurda,
3. Chief District Medical Officer, At/Po/Dist.-Khurda,
4. Collector & District Magistrate, Khurda, At/P.O/Dist.- Khurda,
5. Deepak Kumar Behera, MPHWM), C/o-Medical Officer, I/c, CHC, Manijanga, At/Po-Manijanga, Dist-Khurda

Respondents



Gajendra Singh

18

208
20/8

-9-
16

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) Nos.344, 353,361 & 362 of 2017

WPC(OA) No.344 of 2017

Bikram Samantaray

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

24.08.2022

Order No

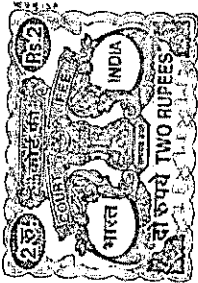
1. This matter is taken up through Hybrid Mode.
2. Heard Mr. K.C.Sahu, learned counsel for the Petitioners and Mr. R.N.Mishra, learned Additional Government Advocate.
3. The present Writ Petitions have been filed with the following prayer:

"The Hon'ble Tribunal be pleased to admit & allow the Original Application.

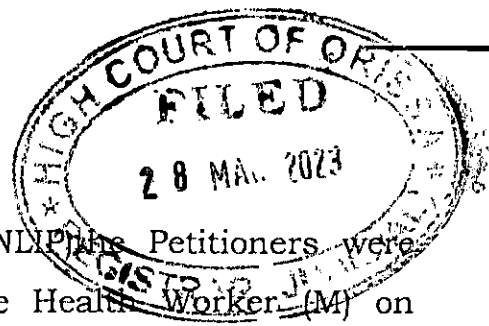
(ii) The Hon'ble Tribunal be pleased to direct the respondents to regularize the services of the applicants as MPFIW (M) on regular basis from the date of completion of six years of contractual service basing upon the G.A. Department circular dtd. 17.09.2013 keeping in view of regularization of similar situated contractual MPHWM as per Annexure-5 with all consequential service and financial benefits within a stipulated period for the interest of justice.

(iii) The Hon'ble Tribunal may be pleased to pass any order(s) / direction(s) as deems fit and proper for the interest of justice".

4. It is submitted that after abolition of the National



1
M



Leprosy Irradiate Project, (NLIP) the Petitioners were appointed as Multi Purpose Health Worker (M) on contractual basis vide order dated 18.02.2008 under Annexure-2.

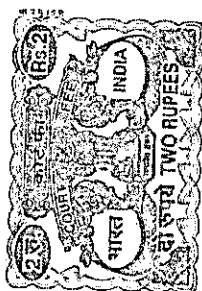
5. It is submitted that since 18.2.2008, the Petitioners are continuing on contractual basis and even though their cases have been recommended, but they have not yet been regularized.

6. It is submitted that persons appointed on contractual basis subsequent to the Petitioners have been regularized in the meantime.

7. This Court after going through the materials available on record finds that the claim of the petitioner for regularization is covered by the resolution issued by the G.A Department on 17.09.2013 and 16.01.2014. Similar issue has also been dealt with by this Court in the case of **Patitapaban Dutta Das vs. State of Odisha & Others**, wherein this Court has directed the authorities to regularize the services of the Petitioners therein on completion of six years of contractual engagement.

8. Since in the present case, the Petitioners have already completed more than 14 years of service on contractual basis as Multi Purpose Health Worker (M), the Opposite Parties more particularly the Opposite Party No.3 is directed to take steps for absorbing the

1
B



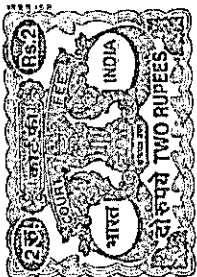
Petitioners in the regular establishment. Such exercise shall be completed by absorbing the Petitioners in the regular establishment within a period of four months from the date of receipt of this order.

9. With the aforesaid observation and direction, the Writ Petitions are disposed of.

10. The photocopy of the order be placed on the connected cases.

Sd/- B. P. Satapathy, J.

Subrat



Cmp by
sankar
18/1/23



-18-
-19-

Date of Application :- 13
Date of Notification :- 18
Date of Supply :- 18
Date of Ready :- 18
Date of Delivery :- 18

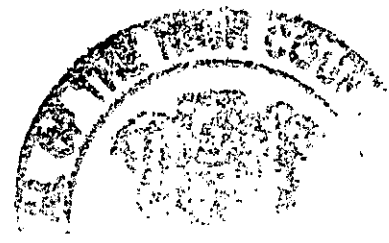
C.A. No- 5723 / 2023
MEMO OF COSTS

	Rs.	P.
Application Fee.....	0	50
Searching Fee.....		
Extra Fee for Urgency..	5	25
Folios Pages 7.....	3	50
Hologram Fees (4.)	4	00
Other Items if any.....	2	00
Total	15	85

(Rupees *fifteen*
& Paise *Eighty five* only)

ASO
18/1/23

EXAMINER OF COPIES
CUM
SUPERINTENDENT
COPYING DEPARTMENT



CERTIFIED TO BE A TRUE COPY
18/1/23
Assistant Registrar (Estt.)
ORISSA HIGH COURT
Authorised Under Section-75, Act-I of 1872

IN THE HIGH COURT OF ODISHA : CUTTACK

W.A. No. 633 OF 2023

State of Orissa & Ors

.... Petitioners/

Bhagabam Pradhan -Versus-

.... Opp. Party

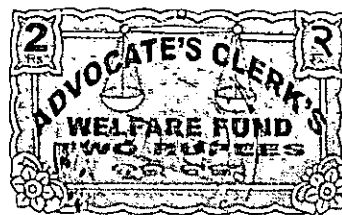
APPEARANCE MEMO

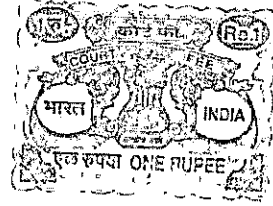
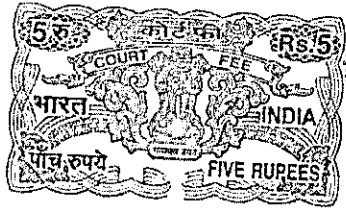
I hereby enter appearance in the above noted case on behalf of the petitioners.

CUTTACK

Dt. 27-3-2023

Singh Narayan Patra
Addl. Govt. Advocate/ 0-1738/1992
M/PH - 986/3/4/33





IN THE HIGH COURT OF ORISSA: CUTTACK.

I A No. 1621 / 2022

(Arising out of Writ Appeal No. 633 / 2022)

IN THE MATTER OF:

An application Under Chapter-VI, Rule- 27 (A) of
Orissa High Court Rules, 1948

AND

IN THE MATTER OF:

An application under section 5 of the Limitation
Act,

AND

IN THE MATTER OF:

An application for condonation of delay

AND



IN THE MATTER OF :

1. Principal Secretary to Govt. of Odisha,
Health & Family Welfare Department,
LokSevaBhawan, Bhubaneswar, Dist :
Khordha.
2. Director, Health Services, Odisha,
Bhubaneswar, Dist: Khordha.
3. Chief District Medical Officer, Khordha,
At/Po/Dist: Khordha.
4. Collector & District Magistrate, Khordha,
At/Po/Dist: Khordha.

(Opposite Party No. 1 to 4 in the writ petition)

... Appellants.

-Versus-

 24/12
 (SURYA NARAYAN PATNAIK)
EMP NO 1738/97
(M/Ph- 9861314133)

Added my

1. Bhagaban Pradhan, aged about 56 years,
Son of late. Dhobali Pradhan, At/Po:
Kuha, Old Town, Bhubaneswar, Dist:
Khordha, at present serving as
MPHW(Male), CHC, Balkati, under the
CDMO, Khordha.

2. Raghunath Pradhan, aged about 44 years,
son of late Dhobali Pradhan, At/Po:
Kuha, Old Town, Bhubaneswar, Dist:
Khordha, at present serving as
MPHW(Male), CHC, Balkati, under the
CDMO, Khordha.

(Petitioners in the writ petition)

.... Respondent.

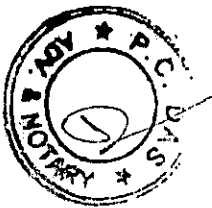
3. Deepak Kumar Behera, MPHWM, C/o.
Medical Officer, I/c, CHC, Manijanga,
At/Po: Manijanga, Dist: Khordha.

(The matter out of which, this writ appeal arises was
before this Hon'ble Court in W.P.(C) No.362 of 2017,
disposed of on 24.08.2022)

To

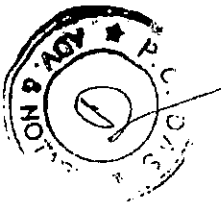
The Hon'ble Chief Justice and His Lordships
companion justices of the Hon'ble High Court of
Orissa.

The humble memorandum of appeal
of the above named appellants;



MOST RESPECTFULLY SHEWETH:-

- 1 That, the petitioners' / appellants have filed the above mentioned writ appeal, challenging the impugned Order dated 24.08.2022 (Annexure- 1) passed by the Hon'ble Single Judge in W.P.(C)^(QA) No.362 of 2017.
- 2 That, on receipt of order of Hon'ble High Court vide order dated 24.08.2022 in W.P.(C)^(QA) No.362 of 2017 on ----- the Administrative Department, i.e. the Appellant No.1 considered the mater and sent it to the law Department for views , where the Law Department has expressed the view to file writ appeal challenging the said order. Accordingly the Department of Health & F.W. (Appellant No.1) issued instruction to the Appellant No.3 vide letter No.28308 dated 12.12.2022 authorizing the Appellant No.3 to contact the Office of the learned Advocate General, Odisha, Cuttack for filing of a writ appeal taking into consideration the views of the Law Department. On receiving such letter from the Appellant NO.1 the Appellant No.3 being the authorized person collected all the documents and vide his letter No.2415 dated 07.02.2023 forwarded all the papers to the Office of the Ld. Advocate General Orissa, Cuttack with a request to file the writ



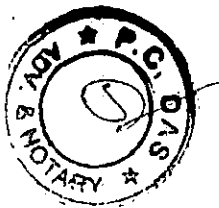
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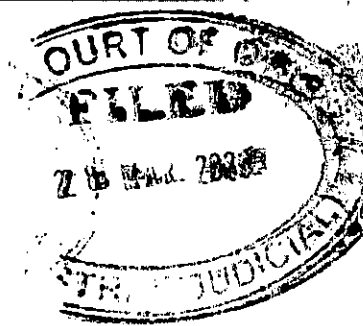
appeal and the said file has been received by the Office of the Ld. Advocate General on 01.03.2023.

- 3 That the delay was caused due to official procedure but not intentional. In such situation delay was caused in preparing and finalizing the writ appeal, which is filed on 27.3.2023.
- 4 That, the delay in filing the appeal was on account of procedural delay in obtaining approval from the higher authority. The delay caused is not intentional or deliberate.
- 5 That, due to administrative constraints the movement of the file from one department to another department got delayed, delaying the administrative process in getting approval as well as due to pandemic situation.
- 6 That, facts and grounds set forth in the writ appeal may be treated as facts of this I. A and the same are not mentioned once again to avoid repetition.
- 7 That, in the larger interest of justice, the delay in filing the appeal beyond the statutory period of limitation be condoned
- 8 That, the petitioners / appellants have a strong prima facie case; balance of convenience lies in their favour and will suffer irreparable loss if the relief sought here under is not granted.

After Writ



Sund



PRAYER

In the light of the above facts and circumstances,
it is humbly prayed that your Lordships may
graciously be pleased to condone the delay of
184 days in filing the appeal beyond the
statutory period of limitation in the ends of justice

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

Cuttack By the petitioners, through

Date: 27.03.2023

Additional Government Advocate

AFFIDAVIT

I, Dr. Artabandhu Nayak, aged about 63 years,
S/o- Late Anam Charan Nayak at present serving
as Chief District Medical & Public Health Officer,
Khordha, At/Po/Dist: Khordha, (Appellant No.3)
do hereby solemnly affirm and state as follows: -

- 1 That, I am the Appellant No.3 being
acquainted with the facts of the case has been
duly authorized by the appellants to swear this
affidavit on their behalf
- 2 That, the facts stated above are true to the best
of my knowledge, information and based on
official records available.

Identified by

Advocate Clerk of A.G. Office

DEPONENT

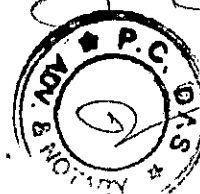
Chief District Medical &
Public Health Officer, Khordha

The above named deponent

Solemnly affirm on... 28/3/23

...being identified

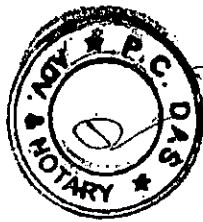
by... AK



CERTIFICATE

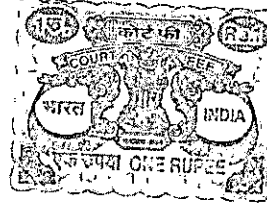
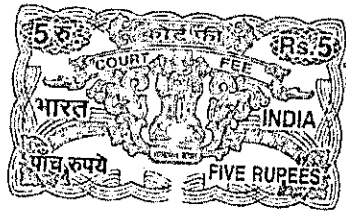
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Additional Government Advocate



27/10/23

Attested by



IN THE HIGH COURT OF ORISSA: CUTTACK.

I A No. 1622 / 2022

(Arising out of Writ Appeal No. 633 / 2022)

IN THE MATTER OF:

An application Under Chapter-VI, Rule- 27
(A) of Orissa High Court Rules, 1948

AND

IN THE MATTER OF:

An application for stay of implementation
of dated 24.08.2022 (Annexure- 1)

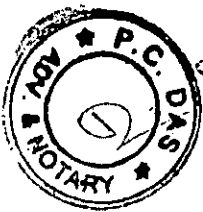
AND

IN THE MATTER OF :

1. Principal Secretary to Govt. of Odisha,
Health & Family Welfare Department,
LokSevaBhawan, Bhubaneswar, Dist :
Khordha.
2. Director, Health Services, Odisha,
Bhubaneswar, Dist: Khordha.
3. Chief District Medical Officer, Khordha,
At/Po/Dist: Khordha.
4. Collector & District Magistrate, Khordha,
At/Po/Dist: Khordha.

(Opposite Party No. 1 to 4 in the writ petition)

... Appellants.



[Handwritten signature]

(SUDAMA NARAYAN PATNAIK)
ENR NO 0-1738/92
M/PN-986/314133

[Handwritten signature]

-Versus-

1. Bhagaban Pradhan, aged about 56 years,
Son of late. Dhobali Pradhan, At/Po:
Kuha, Old Town, Bhubaneswar, Dist:
Khordha, at present serving as
MPHW(Male), CHC, Balkati, under the
CDMO, Khordha.
2. Raghunath Pradhan, aged about 44 years,
son of late Dhobali Pradhan, At/Po:
Kuha, Old Town, Bhubaneswar, Dist:
Khordha, at present serving as
MPHW(Male), CHC, Balkati, under the
CDMO, Khordha.

(Petitioners in the writ petition)

.... Respondent.

3. Deepak Kumar Behera, MPHW(M), C/o.
Medical Officer, I/c, CHC, Manijanga,
At/Po: Manijanga, Dist: Khordha.

(The matter out of which, this writ appeal arises was
before this Hon'ble Court in W.P.(C) No.362 of 2017,
disposed of on 24.08.2022)

To

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

The humble memorandum of appeal
of the above named appellants;



Signature

Atul Kumar Behera

MOST RESPECTFULLY SHEWETH:-

1. That, the petitioners/ appellants have filed the above mentioned writ appeal, challenging the impugned Order dated 24.08.2022 passed by the Hon'ble Single Judge, in W.P.(C) No. 362/2017.
2. That, facts and grounds set forth in the writ appeal may be treated as facts of this I. A. and the same are not mentioned once again to avoid repetition.
3. That, the petitioners / appellants have a strong prima facie case; balance of convenience lies in their favour and will suffer irreparable loss if the relief sought here under i.e. stay operation of the order dated 24.08.2022 (Annexure- 1) passed by the Hon'ble Single Judge in W.P.(C) No. 362/2017, is not granted.

At Order Writ

P R A Y E R

In the light of the above facts and circumstances, it is humbly prayed that your Lordships may graciously be pleased to stay operation of the order dated 24.08.2022 (Annexure- 1) passed by the Hon'ble Single Judge in W.P.(C) No. 362/2017, pending disposal of the writ appeal

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

Cuttack

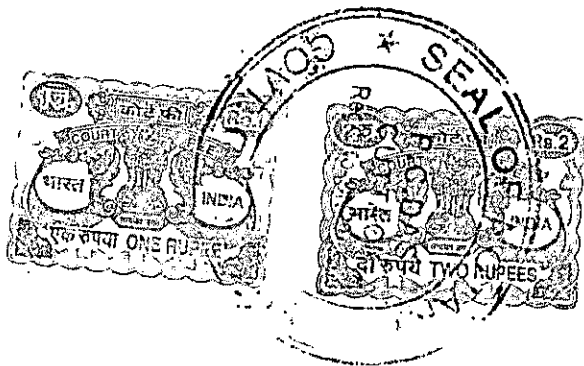
By the petitioners / appellants

Date: 27.03.2023

through

[Signature]
Additional Government Advocate

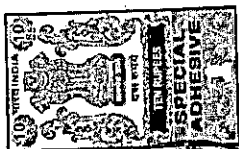




AFFIDAVIT

I, Dr. Artabandhu Nayak, aged about 63 years,
S/o- Late Anam Charan Nayak, at present serving
as Chief District Medical & Public Health Officer,
Khordha, At/Po/Dist: Khordha, (Appellant No.3)
do hereby solemnly affirm and state as follows: -

- 1 That, I am the Appellant No.3 being acquainted with the facts of the case has been duly authorized by the appellants to swear this affidavit on their behalf
- 2 That, the facts stated above are true to the best of my knowledge, information and based on official records available.



Identified by

L. Panda
Advocate Clerk of A.G. Office

Artabandhu Nayak

DEPONENT

Chief District Medical &
Public Health Officer, Khordha

CERTIFICATE

Due to lack of cartridge papers this is typed in
thick white papers

Amrinder Singh
Additional Government Advocate

ENR NO. 1738/97

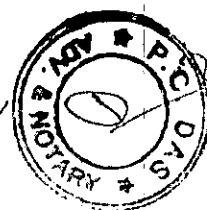
M / PH - 986/314/33

9/2
27/3/2023

The above named deponent
Solomnly affirm on.....

.....being identified

by.....*L. Panda, A/C*





1. RFA/RSA/FAO/SAO/LPA/SPA/CRP/ReviewPet/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/MatRef/PP(FAMCT)/TestCase/Intest.Case/L.A.Ref/RCFA/L.A.A./RCSA/RERev/MAC/MACAPP/ELPet/ELAPP/Arb.P/Arb.A/Insurance Ref/Cont.Case(c) Coutd.App(c)/MFA (name of the Act)/MSA/SP.JC(name of the Act) Crl.A/ Crl.Rev./Crl.MC/ BLAPL/ Cal.MAPPI/WP(Crl)/CUSREF STREV

Case Type Writ No. 17 /2023

24.01.2023
Date of Regn.

2. If 'State' is Party, Name of the Deptt : (Pet/Res) (Put ☒ mark)

Deptt. of Health.

If Public Undertakings (Specify name): (Pet/Res) (Put ☒ mark)

No

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

--	--	--	--	--	--

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)

under Article 226 & 227 of the Constitution of India

5. Section/Sub-Section involved.

6. Rules Involved

7. Whether any other matter is pending in this Court on the same point of law: if so, give the number of matter: No

8. Whether any other matter is pending against the impugned order/judgment? if so, give the number of matter: No

9. Whether the matter is covered by any judgment of the Supreme Court, this court, or any other High Court, if so give the details of the judgment: No

10. Point of law involved in the matter: us 14809

Place: Cuttack

Date: 24.01.2023

[Signature]
Signature of the Advocate

IN THE HIGH COURT OF ORISSA: CUTTACK

Caveat Petition No. 17 /2023

(Arising out of W.A. No. _____/2023)

Bhagaban Pradhan & another ... Caveators/Petitioners


-Versus-

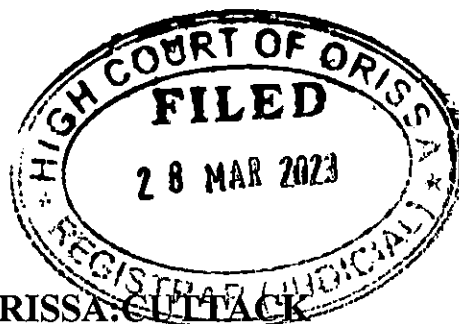
The Commissioner -Cum- Secretary,
Health and Family Welfare Department,
Government of Odisha & others **Opp. parties**

I N D E X

<u>Sl.No.</u>	<u>Description of Documents</u>	<u>P a g e s</u>
01.	Caveat Petition	... 01 – 07
02.	<u>Annexure-1</u> Copy of the order dtd.24.08.2022 passed in WPC(OA) No.362/2017	... 08 - 11
03.	Vakalatnama.	

Cuttack
Dt.24.01.2023


(BUDHIRAM DAS)
Advocate
Enrolment No.O-2853/1999
Mob.No.9658419192



IN THE HIGH COURT OF ORISSA: CUTTACK

Caveat Petition No. 17 /2023

(Arising out of W.A. No. 633 /2023)

Bhagaban Pradhan & another ... Caveators/Petitioners

-Versus-

**The Commissioner -Cum- Secretary,
Health and Family Welfare Department,
Government of Odisha & othersOpp.parties**

SYNOPSIS

The petitioners are working as MPHWS (Male) under C.H.C., Balkati and Zonal Dispensary, Kalpana Area (District Malaria Office), in the district of Khurda and they have already rendered their services for more than 10 years on contractual basis and in spite of this they have not been regularised following which they approached this Hon'ble Court in WPC (OAC) No.362 of 2017 claiming to regularise their services.


This Hon'ble Court after hearing the writ petition was pleased to pass an order dtd.24.08.2022 directing the opposite party No.3 to take steps for absorbing the petitioners/caveators in the regular establishment and such exercise shall be completed by absorbing the petitioners in the regular establishment within a period of 4 months from the date of receipt of this order.

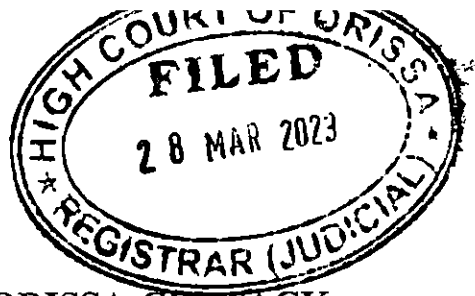
D. Act v

Under the above facts and circumstances of the case, the opposite parties being aggrieved by such order may approach this Hon'ble Court in Writ Appeal to obtain any interim order before giving an opportunity of hearing to the present petitioners.

Hence, the petitioners/caveators file the aforesaid Caveat Petition seeking prayer that they may be given an opportunity of hearing before passing any interim order by this Hon'ble Court.

Cuttack
Dt.24.01.2023


(BUDHIRAM DAS)
Advocate for the Caveators
Enrolment No.O-2853/1999
Mob.No.9658419192



IN THE HIGH COURT OF ORISSA: CUTTACK

Caveat Petition No. 17 /2023
(Arising out of W.A. No. 633 /2023)

Bhagaban Pradhan & another ... Caveators/Petitioners

-Versus-

**The Commissioner -Cum- Secretary,
Health and Family Welfare Department,
Government of Odisha & othersOpp.parties**

DATE CHART

01. 06.03.2017: The Petitioners/Caveators have filed

O.A. No.362 of 2017 before the learned
O.A.T., Bhubaneswar seeking for a
direction to the opposite parties to
regularise the services of the applicants
as MPHWM on regular basis from the
date of completion of six years of
contractual service basing upon the G.A.
Department Circular dated 17.09.2013
keeping in view of regularization of
similar situated contractual MPHWM
as per Annexure-5 with all consequential
service and financial benefits within a
stipulated period.

= After demolition of the O.A.T., the case
of the caveators/petitioners has transferred to



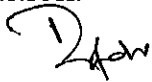
this Hon'ble Court and renumbered as WPC(OAC)No.362 of 2017.

02. **24.08.2022:** The Hon'ble High Court after hearing the parties was pleased to dispose of the Writ Petition with a direction to the opposite party No.3 (Chief District Medical Officer, Khurda) to take steps for absorbing the petitioners in the regular establishment and such exercise shall be completed by absorbing the petitioners in the regular establishment within a period of four months from the date of receipt of the order.

= Under the above facts and circumstances of the case, the opposite parties being aggrieved by such order may approach this Hon'ble Court in Writ Appeal to obtain any interim order before giving an opportunity of hearing to the present petitioners.

Hence, this present Caveat Petition.

Cuttack
Dt.24.01.2023


(BUDHIRAM DAS)
Advocate for the Caveators
Enrolment No.O-2853/1999
Mob.No.9658419192





IN THE HIGH COURT OF ORISSA: CUTTACK

77990

Caveat Petition No. 17 /2023
(Arising out of W.A.No. 623 /2023)

In the matter of:

An application U/s.148(A) of the Civil
Procedure Code, 1908;

A n d

In the matter of:

1. Bhagaban Pradhan, aged about 56 years, Son of Late Dhobali Pradhan, resident of At/P.O.-Kuha, Old Town, Bhubaneswar, Dist.-Khordha, at present serving as MPHWP (Male), CHC, Balkati, under the C.D.M.O., Khurda, Dist.-Khurda.
2. Raghunath Pradhan, aged about 38 years, Son of Late Dhobali Pradhan, resident of At/P.O.-Kuha, Old Town, Bhubaneswar, Dist.-Khurda at present serving as MPHWP (Male), Zonal Dispensary Kalpana Area (District Malaria Officer), under the C.D.M.O., Khurda, Dist.-Khurda. Caveators/Petitioners

-Versus-

1. The Commissioner -Cum- Secretary, Health and Family Welfare Department, Government of Odisha, Secretariat Building, Bhubaneswar, Dist.-Khurda.
2. The Director, Health Services, Odisha, Bhubaneswar, Dist.-Khurda.
3. The Chief District Medical Officer, Khurda, At/P.O./Dist.-Khurda.
4. The Collector & District Magistrate, Khurda, At/P.O./Dist.-Khurda.

.....Opp.parties/Petitioners



24.1.23

RD109156135IN IVR:8279109156135 भारतीय डाक

RL ORISSA HIGH COURT S.O <75300>

Counter No:1,24/01/2023,13:45

To:COMMISSIONER .HEALTH & FW DEPT

PIN:751001, Bhubaneswar G.P.O.

From:BUDIRAM DAS.ADV OHC

Wt:30gms

Amt:27.00(Cash)

<Track on www.indiapost.gov.in>

<Dial 18002666868> <Wear Masks. Stay Safe>



RD109156144IN IVR:8279109156144 भारतीय डाक

RL ORISSA HIGH COURT S.O <75300>

Counter No:1,24/01/2023,13:45

To:DIST HEALTH SERVICES,ODISHA

PIN:751001, Bhubaneswar G.P.O.

From:BUDHIRAM DAS.ADV OHC

Wt:30gms

Amt:27.00(Cash)

<Track on www.indiapost.gov.in>

<Dial 18002666868> <Wear Masks. Stay Safe>



RD109156158IN IVR:8279109156158 भारतीय डाक

RL ORISSA HIGH COURT S.O <75300>

Counter No:1,24/01/2023,13:45

To:CHIEF DIST ME.KHURDA

PIN:752055, Khurda H.O

From:BUDHIRAM DAS.ADV OHC

Wt:35gms

Amt:27.00(Cash)

<Track on www.indiapost.gov.in>

<Dial 18002666868> <Wear Masks. Stay Safe>



RD109156161IN IVR:8279109156161 भारतीय डाक

RL ORISSA HIGH COURT S.O <75300>

Counter No:1,24/01/2023,13:45

To:COLLECTOR & DM .KHURDA

PIN:752055, Khurda H.O

From:BUDIRAM DAS.ADV OHC

Wt:30gms

Amt:27.00(Cash)

<Track on www.indiapost.gov.in>

<Dial 18002666868> <Wear Masks. Stay Safe>



To

Hon'ble the Hon'ble Chief Justice of Orissa High Court and his Lordship's Companion Justices of the said Hon'ble Court.

The humble petition of the above named Caveators/Petitioners;

MOST RESPECTFULLY SHEWETH:-

- 1) That, the Opp.parties in this Writ Appeal are intending to challenge the order dated 24.08.2022 passed by the Hon'ble Single Judge of this Hon'ble Court in W.P.(OAC)No.362 of 2017 directing the opposite party No.3 to take steps for observing the petitioners in the Regular Establishment within a period of 4 months from receipt of the order.
- 2) That it is humbly submitted herewith that the Caveators as Petitioners filed OA No.362 of 2017 before the learned State Administrative Tribunal, Odisha, Principal Bench, Bhubaneswar for regularisation of their service as they have already completed 10 years of service on contractual basis.



3) That it is further alleged that the petitioners were initially appointed as Paramedical Worker under the National Leprosy Eradication Project (in short NLEP) Scheme sponsored by the District Technical support of Team of Lepra India Society and after the project work was over under the said scheme, the petitioners got retrenched from service and thereafter, the Government, Health and Family Welfare Department, so also the Director, Health Services, Odisha, Bhubaneswar upon considering the past work experience rendered by the petitioners, vide letter dated 31.10.2007 and 18.02.2008 directed different CDMOs to absorb the retrenched Paramedical Workers of NLEP Scheme for the post of Multipurpose Health Worker(Male) against the regular sanctioned vacant post.

4) That pursuant to the letter of the Director, Health Services, the C.D.M.O., Khurda appointed the petitioners as Multipurpose Health Workers (Males) on contractual basis and accordingly, the applicants were posted at



different sub-centres under Community Health Centres (in short CHC) in the district of Khurda and the petitioners joined on 18.02.2008 and till today, both of them are continuing as such.

5) That it is further humbly submitted herewith that the petitioners like other Paramedical Workers have been promoted to MPHWS (male) by the C.D.M.O. on contractual basis and most of them have been regularised by different CDMOs basing upon the Resolution of G.A. Department dtd.18.09.2013, as well as the decision of the Higher Power Committee.

6) That it is humbly submitted herewith that though the applicants have already completed their service for more than 10 years on contractual basis, they have not been regularised till today for which they have submitted their representations to the C.D.M.O., Khurda but nothing has been done.

7) That the petitioners finding no other alternative and efficacious remedy approached the Hon'ble Tribunal





vide O.A.No.362/2017 for regularisation of service and consequential service and the Hon'ble Tribunal was pleased to admit and issue notice to the opposite parties making it returnable within 4 weeks and rejoinder, if any be filed within two weeks thereafter.

8) That while the matter stood thus, the said Original Application was transferred to the Hon'ble High Court for adjudication due to abolition of the Hon'ble Tribunal and this Hon'ble Court while hearing this matter was pleased to direct the opposite party No.3 (Chief District Medical Officer, Jagatsinghpur) to take steps for absorbing the petitioners in the regular establishment and such exercise shall be completed by absorbing the petitioners in the regular establishment within a period of four months from the date of receipt of this order.

9) That under the aforesaid facts and circumstances of the case, the opposite parties being aggrieved by the order of the learned trial court may approach this Hon'ble Court in Writ Appeal to obtain any interim order before



giving an opportunity of hearing to the present petitioners/caveators.

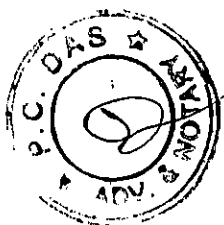
10) That if the writ appeal is filed by the opposite parties and any order is passed in that petition without hearing the caveators/petitioners, the caveators/petitioners will be highly prejudiced.

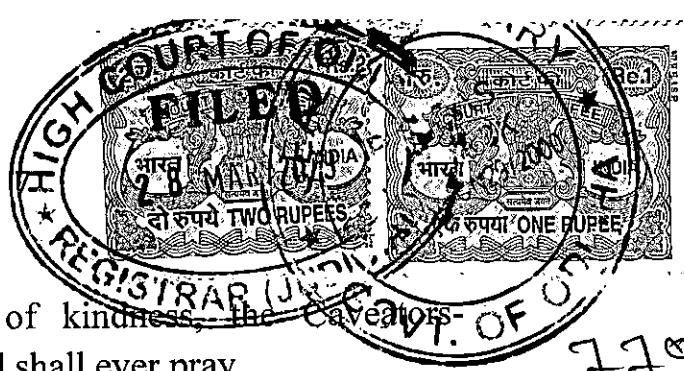
11) That in the interest of justice, it is necessary to serve the copy of the Writ Appeal and stay application if any, before the matter is listed for Admission and Stay and no order shall be passed without giving an opportunity to the caveators of being heard in the matter.

12) That the notice has been sent to the opposite parties by Registered Post with A.D. and the Receipt is filed herewith.

P R A Y E R

The Caveators-Petitioners, therefore most humbly pray that this Hon'ble Court may graciously be pleased to direct the Opposite parties to serve the copy of the Writ Appeal and stay application, if any, or any other proceeding before the matter is listed for orders/admission and no order may be passed without giving any opportunity of hearing of the Caveators-Petitioners.





77990

And for this act of kindness, the Caveators-
Petitioners as in duty bound shall ever pray.

By the Caveators/petitioners through

Cuttack
Dt.24.01.2023

(BUDHIRAM DAS)

Advocate

Enrolment No.O-2853/1999

Mob.No.9658419192

AFFIDAVIT

I, Raghunath Pradhan, aged about 38 years, Son
of Late Dhobali Pradhan, resident of At/P.O.-Kuha, Old
Town, Bhubaneswar, Dist.-Khurda at present serving as
MPHW (Male), Zonal Dispensary Kalpana Area (District
Malaria Officer), under the C.D.M.O., Khurda, Dist.-
Khurda, do hereby solemnly affirm and state as follows:-

That, I am the Cavetor/petitioner No.2 in this case
and swear this affidavit for self and on behalf of
caveator/petitioner No.1 being duly authorised by
him.

That, the facts stated above are true to the best of my
knowledge and belief.

Identified by

Raghunath Pradhan

Advocate.

(BUDHIRAM DAS)

Deponent

Certificate

Certified that due to non-availability of cartridge
papers this matter has been typed on plain white papers.

Cuttack
Dt.24.01.2023

(BUDHIRAM DAS)

Advocate

Enrolment No.O-2853/1999



The above named deponent

Solemnly affirm on.....

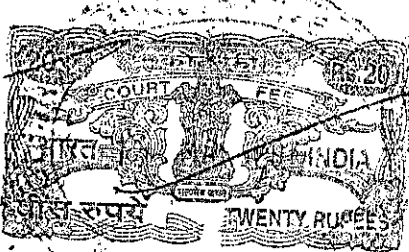
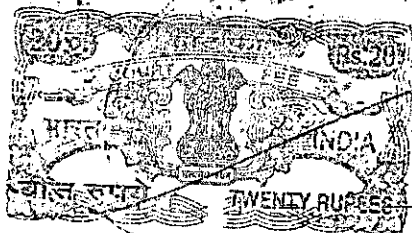
.....being identified

by.....

R. Pradhan

24.1.23

B. Das Adv.



**IN THE STATE ADMINISTRATIVE TRIBUNAL
ODISHA, BHUBANESWAR**

O.A.No- 362/2017

7361/12
PP32/12

In the matter of-

An application U/S-19 of Administrative Tribunal's Act 1985:

AND

In the matter of-

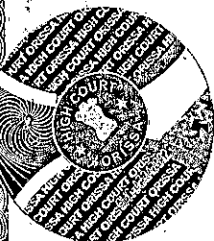
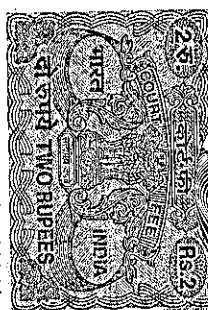
1. **Bhagaban Pradhan**, aged about-50 years, S/o-Late Dhobali Pradhan, resident of At/Po-Kuha, Old Town, Bhubaneswar, Dist.-Khurda at present serving as MPHWMale), CHC, Balkati, under the CDMO Khurda, Dist. Khurda,
2. **Raghunath Pradhan**, aged about-38 years, S/o-Late Dhobali Pradhan, resident of At/Po-Kuha, Old Town, Bhubaneswar, Dist.-Khurda at present serving as MPHWMale), Zonal Dispensary Kalpana area (District Malaria Officer), under the CDMO Khurda, Dist. Khurda,.....**Applicants**

----Versus----

1. Commissioner-cum-Secretary,
Health & Family Welfare Department,
Govt. of Odisha, Odisha Secretariat,
Bhubaneswar, Dist-Khurda,
2. Director,
Health Services, Odisha,
Bhubaneswar, Dist. Khurda,
3. Chief District Medical Officer,
At/Po/Dist.-Khurda,
4. Collector & District Magistrate, Khurda,
At/P.O/Dist.- Khurda,
5. Deepak Kumar Behera, MPHWM),
C/o-Medical Officer, I/c, CHC, Manijanga,
At/Po-Manijanga, Dist- Khurda.....**Respondents**

Jagatsinghpro 3

*7-11
affirmed by
D. Moh*

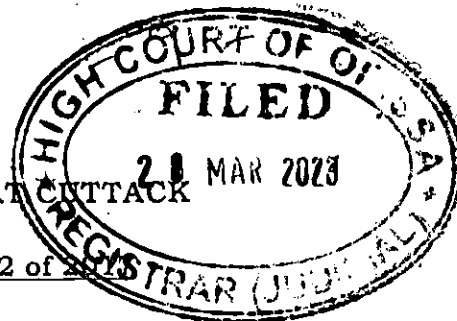


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IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) Nos.344, 353,361 & 362 of 2017

WPC(OAC) No.344 of 2017



Bikram Samantaray

Petitioner

-versus-

State of Odisha & Others

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

Order No

ORDER
24.08.2022

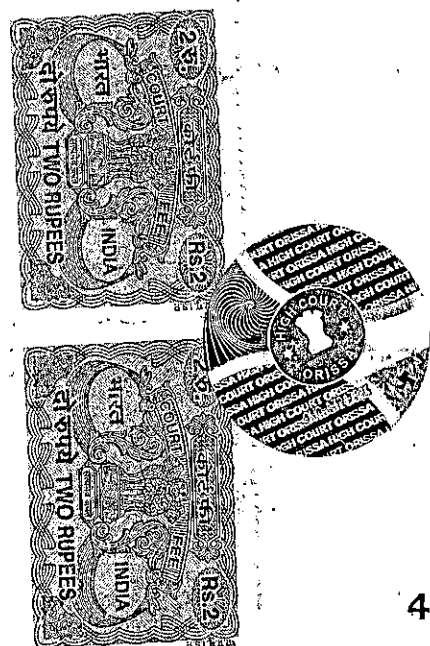
1. This matter is taken up through Hybrid Mode.
2. Heard Mr. K.C.Sahu, learned counsel for the Petitioners and Mr. R.N.Mishra, learned Additional Government Advocate.
3. The present Writ Petitions have been filed with the following prayer:

"The Hon'ble Tribunal be pleased to admit & allow the Original Application.

(ii) The Hon'ble Tribunal be pleased to direct the respondents to regularize the services of the applicants as MPHWS (M) on regular basis from the date of completion of six years of contractual service basing upon the G.A. Department circular dtd. 17.09.2013 keeping in view of regularization of similar situated contractual MPHWS (M) as per Annexure-5 with all consequential service and financial benefits within a stipulated period for the interest of justice.

(iii) The Hon'ble Tribunal may be pleased to pass any order(s) / direction(s) as deems fit and proper for the interest of justice".

4. It is submitted that after abolition of the National



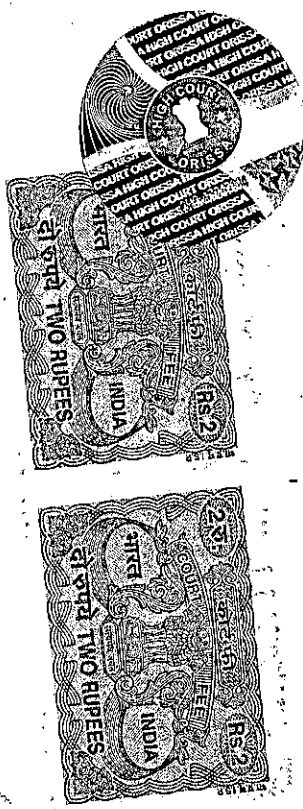
Leprosy Irradiate Project, (NLIP) the Petitioners were appointed as Multi Purpose Health Worker (M) on contractual basis vide order dated 18.02.2008 under Annexure-2.

5. It is submitted that since 18.2.2008, the Petitioners are continuing on contractual basis and even though their cases have been recommended, but they have not yet been regularized.

6. It is submitted that persons appointed on contractual basis subsequent to the Petitioners have been regularized in the meantime.

7. This Court after going through the materials available on record finds that the claim of the petitioner for regularization is covered by the resolution issued by the G.A Department on 17.09.2013 and 16.01.2014. Similar issue has also been dealt with by this Court in the case of **Patitapaban Dutta Das vs. State of Odisha & Others**, wherein this Court has directed the authorities to regularize the services of the Petitioners therein on completion of six years of contractual engagement.

8. Since in the present case, the Petitioners have already completed more than 14 years of service on contractual basis as Multi Purpose Health Worker (M), the Opposite Parties more particularly the Opposite Party No.3 is directed to take steps for absorbing the



Petitioners in the regular establishment. Such exercise shall be completed by absorbing the Petitioners in the regular establishment within a period of four months from the date of receipt of this order.

9. With the aforesaid observation and direction, the Writ Petitions are disposed of.

10. The photocopy of the order be placed on the connected cases:

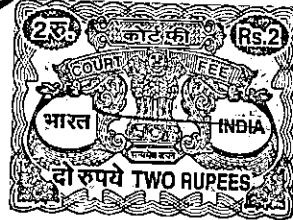
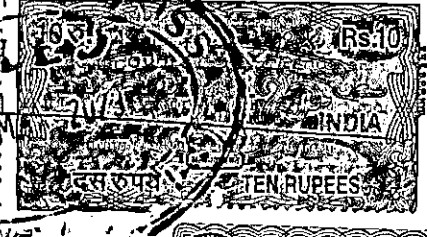
Sd- B.P. Satapathy, J

Subrat



Comp. by S. Sahoo
30/08/22
Page 3 of 3

Te
checked by
(1)



VAKALATNAMA

IN THE HIGH COURT OF JUDICATURE ORISSA, CUTTACK

Cameal
Wf

Suit Appeal
Revision

No. 693/2023 of 204 2023 779910

Bhagaban Pradhan & Another

Appellant / Petitioner / Plaintiff

VERSUS

State of Odisha
2023

Respondent / Opp./Party Defendant

Know all men by these presents, that by this VAKALATNAMA,

wey Bhagaban Pradhan aged about 56 years s/o - late Shobali Pradhan, R/o - M/fo - Kuka, Old Town, Bhubaneswar

Dut - Khurda by Raghunath Pradhan aged about 38 years s/o - late Shobali Pradhan R/o - Kuka, Old Town, Bhubaneswar Dut - Khurda

Appellant / Respondent / Petitioner / Opposite party in the aforesaid Revision / Appeal Case to

hereby appoint and retain Sri BUDHIRAM DAS, S.N.ROLL
No 0-2853/1999, P.H. No - 96584/1992.

Advocate (s) to appear for me / us, in the above case and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same, or any decree or order passed therein including all applications for return of documents or receipt of any moneys that may be payable to me / us in the said case. I / We of any moneys that may be payable to me / us in the said case and also in application review, and in appeals under Orissa High Court order and in applications for leave to appeal to Supreme Court. I / We authorise my / our Advocate(s) to admit any compromise lawfully entered in the said case.

Dated 24/01/2023

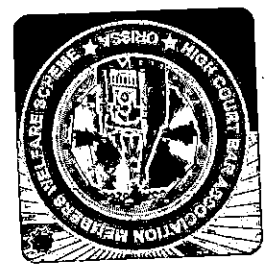
Received from the executant(s)
satisfied and accepted & certify that
I hold no brief for the other side.

Advocate *D. Adm.*
Accepted as above
(BUDHIRAM DAS)

Advocate
Accepted as above

Advocate
Accepted as above

Advocate
Accepted as above



Bhagaban Pradhan

Raghunath Pradhan

SIGNATURE OF EXECUTANT(S)

SCANNED

IN THE HIGH COURT OF ORISSA: CUTTACK

W.A. No. 633 of 2023

State of Odisha & Ors

...

.....

-Versus-

Shri Bhagaban Pradhan

...

.....

Respondents.

RECEIPT

Received the copies of appeal memo along with its annexure and all I.As, from the Appellant (State) in the aforesaid Appeal for appearing on behalf of **Respondent no.1 and 2** pursuant to order **dtd. 22.10.2024.**

Cuttack

Date-24.10.24

D. J. Das
30.10.2024
Advocate

For the **Respondent no. 1 & 2**
(Adv. Mr. Budhiram Das)

