

SUKUMAR GHOSH, A.G.A

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

In the High Court of Orissa

ORDER SHEET

BLAPL/W. P(A) No. 931/2023

of 20

23

STATE OF ODISHA

P. Q. S. Petitioner

Versus

RAJKISHORE ROUTRAY

Opposite-Party

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
			<p>PRESENTED ON 06/05/2023</p> <p>Register and Put up for Orders</p> <p>Sm</p> <p>Registrar (Judicial)</p> <p>For SR</p> <p>Am</p> <p>6.5.23</p> <p>09/05/23</p>



FC094247

SCANNED



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 931 of 2023

*State of Odisha and others*

....

*Appellants*

Mr. M.K. Khuntia, Additional Government Advocate

-versus-

*Rajkishore Routray and another*

....

*Respondents*

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MISS JUSTICE SAVITRI RATHO

Order No.

ORDER

28.10.2024

I.A. No.2390 of 2023

01. This matter is taken up through Hybrid mode.

2. For the reasons stated in this application, filing of certified copy of the impugned order is dispensed with for the present. The application is accordingly disposed of.

I.A. No.2391 of 2023

3. Issue notice to respondent No.1 on the question of limitation by Registered/Speed Post with A.D., making it returnable within four weeks, requisites for which shall be filed by 04.11.2024.

4. List this matter on 09.12.2024.

  
(Chakradhara Sharan Singh)  
Chief Justice

  
(Savitri Ratho)  
Judge

# IN THE HIGH COURT OF ORISSA

Case No. WA 931/2023

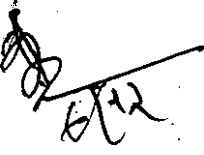
## OFFICE NOTES

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. 2390 of 2023 is at Page "A" for dispensing with certified copy.</p> <p>(ii) I.A NO. 2391 of 2023 is at Page "B" for condonation of delay.</p> <p>Along with WPC (OAC) 2885/2018</p> <p>for orders</p> <p>Akash Pradhan 22.08.2024</p> <p><i>[Signature]</i> 22/8/24</p> <p>Memo:- 22899 Date 28/11/24</p> <p>Notice on Limitation issued to Respondent-1 by R.P with A.D. being dt 05.12.2024 for show cause and appearance.</p> <p><i>[Signature]</i> 05.11.2024</p> <p>WPC - Pro Seela Kumar Mahapatra and also, entered appearance on behalf of Respondent No-1 by being v-name</p> <p><i>[Signature]</i> 26/11/24</p>

# IN THE HIGH COURT OF ORISSA

Case No. WA-931/2023

## 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
01	28-10-2024	<p><u>Order No - 1</u></p> <p>(i) L A NO. 2391 of 2023 is at para (B) for further order regarding condonation of delay.</p> <p>for order</p> <p>Alongwith <del>with</del> wpc (Cone) 2885/2018 (a dept of case)</p> <p>Akash Pradhan 06.12.2024</p> <p>D.B Add note 09.12.2024</p> <p></p>



**ORISSA HIGH COURT**  
**FILING ACKNOWLEDGEMENT SLIP**

CNR

**ODHC010353882023**

Filing No

**WA/0000931/2023**

Date and Time

**06/05/2023-10:24:32**

Misc Case/IA

2390/2023,2391/2023,2392/2023

Petitioner Name

STATE OF ODISHA

Petitioner Advocate Name

SUKUMAR GHOSH,A.G.A

Respondents Name

RAJKISHORE ROUTRAY

Respondents Advocate

Amount

Police Station

FIR



Saturday 06th of May 2023 11:08:17 AM

# STAMP REPORT

CASE NO.....

## LIMITATION

Date of Judgement Awards 21-9-22  
Date of Valid Presentation 6-5-23  
Total Period Occupied 236 day  
Limitation 30 day  
Certified Copy Period 30 day  
Delay in filing 206 day

1. In time .....<sup>NO</sup>Expired on
2. Period of delay 206 day 2A 23 9/1/23 Can correlation of delay
3. Court Fee Rs. 121/-
4. Authentication fee due on the  
(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 206 day  
(d) Receipt showing copy on A.G. 23 9/1/23 Can  
(e) Vakalatnama properly stamped, A memo was  
Executed and accepted
6. (a) Cause Title In order  
(b) Provision of Law Commission
7. Code Indicated.
8. Single Judge/Division Bench Case
9. Other Defects

STAMP REPORTER

2105-23

1. RFA/RSA/FAO/SAO/LPA/SPA/CRP/Review pet/O. Rei/EXFA/EXSA/SM/APP Tr. P(c) WP (c)/WA/SCLP/Co. Appl/Co. Pet/Co. Case/Co. App/Bkg, P/Mat. A/Mat Rei/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)/Coud. 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 (cri) CUSREF STREV.

Case Type WA No 931 / 2023 Date of Regn. 05/5/23

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.

3 1

0 7

9 9

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 Andhra High Court Order 1948

5. Section/Sub-Section Involved

6. Rules Involved

No

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 No

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

No

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

Date 05/5/23

Signature of the Advocate

0776-1988

## High Court of Orissa Acknowledgement



CNR : ODHC010353882023  
Efiling No : AOR20220001513C202300306  
Filing No. : WA/931/2023 Date of Filing : 06-05-2023  
Petitioner : STATE OF ODISHA Time of Filing : 10:08:26  
Petitioners : SUKUMAR GHOSH,A.G.A Respondent : RAJKISHORE  
Advocate : ROUTRAY  
Amount : 0.00



[Print](#)



IN THE HIGH COURT OF ORISSA: CUTTACK

W.A. NO. 921 OF 2023

( Arising out of W.P.C (OAC) No.2885 of 2018,  
Disposed of on 21.09.2022)

CODE NO.

State of Odisha Revenue & Disaster Management Department,  
Odisha and others.

... Appellants

-VERSUS-

Rajkishore Routray

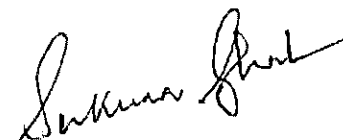
... Respondent.

I N D E X

Sl.NO.	DETAILS OF DOCUMENTS	PAGES
1	SYNOPSIS	A
2	List of dates & events	B
3	WRIT APPEAL	01-15
4	<u>ANNEXURE-1</u> Copy of order dtd. 21.09.2022.	16-18
5	<u>ANNEXURE-2</u> Copy of the O.A.	19-26
6	<u>ANNEXURE-3</u> Copy of the notification dated 12.12.1997.	27
7	VAKALATNAMA	

CUTTACK.

Dt. 05/05/22

  
ADDL. GOVT. ADVOCATE  
SUKUMAR GHOSE  
ENI NO. 0-776/1988  
Mob - 9937-835 630


## A

### SYNOPSIS

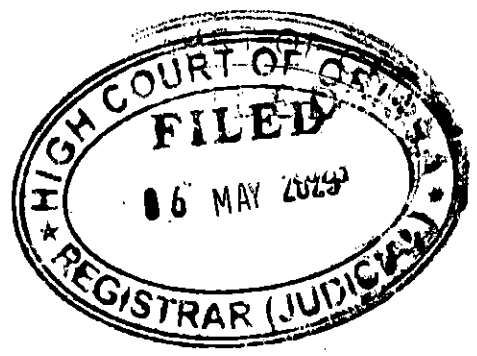
The respondent filed an Original Application vide W.P.C (OAC) No.2885 of 2018 before the Hon'ble High Court praying for a direction to the present appellants to extend similar benefits of pension by counting his entire past service rendered in the job contract establishment and regular establishment in the light of the decision given by the Courts in O.A No.3020(C)/2003 (Nityananda Biswal Vs. State of Orissa and others).

The Hon'ble Single Judge vide order dated 21.09.2022 disposed of the aforesaid writ petition relying on the order passed in O.A. No.3020(C)/2003 and directed the appellants to extend all such benefits in favour of the respondent in terms of the direction given in O.A No.3020(C)/2003 within a period of three months from the date of communication of the order.

The aforesaid order of the Hon'ble Single Judge is erroneous, contrary to the provisions of the O.C.S (Pension) Rules, 1992 and against the settled position of law and is liable to be interfered with.



ADDL. GOVT. ADVOCATE



**B**

**LIST OF DATES AND EVENTS**

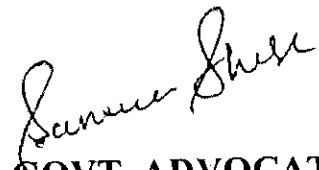
15.12.1978 Respondent joined as a job contract Chainman under the Dy. Director, Consolidation, Range-IV, Cuttack.

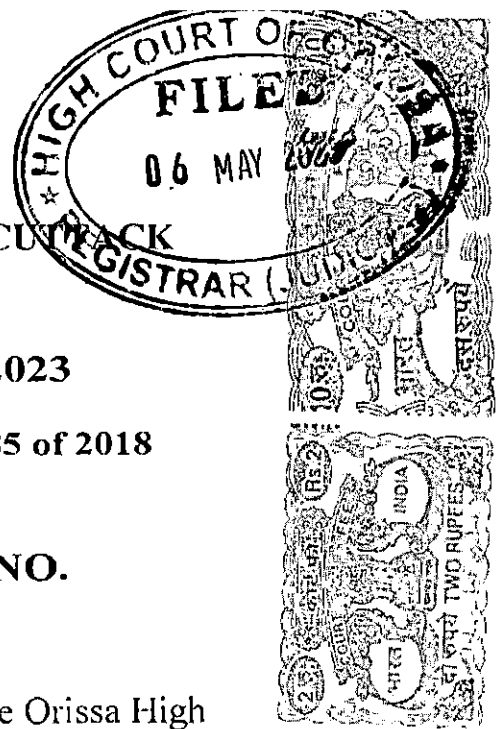
28.10.2014 Respondent was brought over to the regular establishment as Peon by the District Office, Cuttack.

31.10.2014 Respondent retired from service.

2018 Respondent filed W.P.C (OAC) No.2885 of 2018.

21.09.2022 W.P.C (OAC) No.2885 of 2018 was disposed of by the Hon'ble Single Judge, directing the appellants to grant similar benefits to the respondent as has been done in O.A No.3020(C)/2003 (Nityananda Biswal Vs. State of Orissa and others).

  
**ADDL. GOVT. ADVOCATE**



IN THE HIGH COURT OF ORISSA : CUTTACK  
(Appellate Jurisdiction Case)

W.A. NO. 921 OF 2023

[Arising out of W.P.C (OAC) No. 2885 of 2018  
disposed of on 21.09.2022]

CODE NO.

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 Patna High Court;

AND

In the matter of:

Presented on. 6/5/2023  
Sm  
Registrar (Judicial)

An appeal challenging the judgment and  
order dated 21.09.2022 passed in W.P.C  
(OAC) No.2885 of 2018 by the Hon'ble  
Single Judge;

AND

In the matter of :

1. State of Odisha, represented through its  
Secretary to Govt., Revenue & Disaster  
Management Department, Lok Seva  
Bhawan, Bhubaneswar.
2. Director of Consolidation, Odisha, Board of  
Revenue, Cuttack, District : Cuttack.
3. Deputy Director of Consolidation, Cuttack,  
Range-III, Cuttack

4. Collector, Cuttack,  
At/Po/ Dist.-Cuttack.

(O.P. Nos.1 to 4 in the writ petition)

...Appellants

-Versus-

1. Rajkishore Routray, aged about 69 years,  
S/o. Late Gopinath Routray, At-  
Lokanathpur, P.O- Asureswar, P.S- Nichinti  
koili, Dit.- Cuttack, Retd. Peon under  
Collectorate, Cuttack, At/P.O/Dist.- Cuttack.

(Petitioner in the writ petition)

... Respondent.

2. Accountant General (A&E), Odisha,  
Bhubaneswar, District : Khurda.

(O.P. No.5 in the writ petition)

... Proforma Respondent

[The matter out of which this writ appeal arises  
was before this Hon'ble Court in W.P.C.(OAC)  
No. 2885 of 2018, disposed of on 21.09.2022]



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 appellants challenge herewith the order dated 21.09.2022 passed in W.P.C.(OAC) No. 2885 of 2018 by the Hon'ble Single Judge in directing the present appellants to extend all the benefits in favour of the respondent in terms of the directions given by the Courts in O.A. No.3020(C) of 2003 (Nityananda Biswal v. State of Orissa and others), on the ground that the said order is completely erroneous and violation of the settled principles of law as well as the statutory provisions governing the field for grant of pension to job contract employees who have been absorbed in regular establishment. A copy of the order dated 21.09.2022 is annexed herewith as **ANNEXURE-1**.

2. That the respondent approached the learned State Administrative Tribunal in O.A. No.1680 (C) of 2015 with the following prayer:

"Therefore, it is prayed that this Hon'ble Tribunal may kindly be pleased to admit the case and issue notice to the respondent to show cause as to why the case of the applicant shall not be allowed and after hearing the parties, the case of the applicant be allowed.

And direction be given to the respondents to sanction full pension in favour of the applicant by counting entire job contract period as qualifying service and the applicant be given all the arrears within a stipulated period.

And the entire job contract service of the applicant be taken as qualifying service for the purpose of pension."

3. That the brief factual backdrop of the case is that the respondent joined as a job contract Chainman on 15.12.1978 under Dy. Director of Consolidation, Range-IV, Cuttack. While continuing as such, he was posted under Dy. Director of Consolidation, Range-III, Cuttack. He was brought over to regular establishment on 28.10.2014 in the post of regular peon . While working as such, he was allowed to superannuate from service on attaining the age of superannuation w.e.f. 31.10.2014. After his retirement he was granted minimum pension only on the basis of regular period of service and some

J.C period service, although he is entitled for full pension on basis of entire period of service both under J.C., estt. And regular estt.i.e., 15.12.1978 to 31.10.2014. Further case of the respondent is that as similarly situated persons have been granted full pension taking into account their job contract period and regular service, denial of full pension to him amounts to discrimination. **Hence the Original Application. A copy of the O.A. is annexed herewith as ANNEXURE-2.**

4. That after abolition of the learned State Administrative Tribunal, the matter was transferred to this Hon'ble Court and renumbered as W.P.(C)(OAC) No.2885 of 2018. The matter was taken up on 21.09.2022 and the Hon'ble Single Judge disposed of the case relying on the order passed in O.A. No.3020(C)/2003 (Nityananda Biswal Vs. State of Odisha and others) confirmed by this Hon'ble Court in W.P.(C) No.14244/2006 which was also confirmed in S.L.P.(C) No.12573/2015 and directed the appellants to extend all such benefits in favour of the respondent in terms of the direction given by the Court as mentioned above within a period of three months from the date of communication of the order.

5. That it is pertinent to mention here that as per the Finance Department Resolution No.227/64/F. dated 15.05.1997 the job contract employees appointed prior to 12.04.1993 under the administrative control of different



departments can be brought over to the posts created under regular / pension establishment after completion of 10 years service as job contract employees subject to fulfillment of certain conditions and stipulations outlined therein. In the case of Settlement Class-IV Job Contract Employees Union, Balasore-Mayurbhanj District Vs. State of Orissa and others (OJC No.2147 of 1991) and this Hon'ble Court allowed the prayer for regularization and held as follows:

“This apart, for the purpose of calculating the pensionary benefit, so much of their earlier service period shall be reckoned, even if there had been breaks in their employment, so as to make them eligible for pension.”

Keeping in view the judgment of this Hon'ble Court, the Finance Department issued Office Memorandum dated 12.12.1997 in which it has been stated to count the service under job contract establishment to the period for qualifying service to make them eligible for pensionary benefits. **A copy of the said notification dated 12.12.1997 is annexed herewith as ANNEXURE-3.**

6. That it is further pertinent to mention here that as prior to this Office Memorandum, there was provision for calculating the job contract period as qualifying service, some employees approached the learned State

Administrative Tribunal in different Original Applications praying therein to grant pension counting the job contract period as qualifying service. The learned Tribunal vide order dated 21.10.1994 passed in T.A. No.11/1993 by referring to Rule 23 of the Orissa Pension Rules wherein it was held that the same does not prohibit counting of past services rendered in the job contract establishment and that as provided under Rule 23(3), the Government has ample power notwithstanding the restrictions contained in Rule-23(1) to order the periods rendered under work charged establishment or the periods in which an employee is paid from the contingencies for counting towards pension and pensionary benefits. Accordingly the learned Tribunal granted benefits and the said order was confirmed by the Hon'ble Apex Court in S.L.P.(C) No.13916 of 1995.

7. That it is profitable to mention here that as per Rule-18 of the O.C.S. (Pension) Rules, 1992, the job contract employees are not entitled to pension. However, vide Notification No.45865/F. dated 01.09.2001, Rule-18 has been amended by inserting sub-rule (6) in the following manner:

“(6) Notwithstanding anything contained in clause (i) & (ii) 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 as would render him eligible for pensionary benefits.”

Though the aforesaid provision was made under the O.C.S. (Pension) Rules, 1992, but the learned Tribunal while deciding O.A. No.3020(C)/2003 (Nityananda Biswal Vs. State of Odisha and others), relying on the earlier judgment passed in T.A. No.11/1993, held that the period of engagement in job contract establishment should be taken into account as qualifying service. The said judgment was challenged by the State before this Hon’ble Court in W.P.(C) No.14244/2006 which was dismissed vide order dated 9.4.2014 by the Division Bench referring to the judgment of the learned Tribunal passed in T.A. No.11/1993.

8. That in a similar matter which came up for consideration before this Hon’ble Court in W.P.(C) No.11503 of 2003 wherein this Hon’ble Court has held as follows:

“In our considered opinion, the earlier judgment, which is well-reasoned, holds the field as the subsequent decision in W.P.(C) No.14244 of 2005 had not referred to the same. Opposite parties will be given benefits only on the basis of earlier Division Bench judgment in OJC No.2147 of 1991

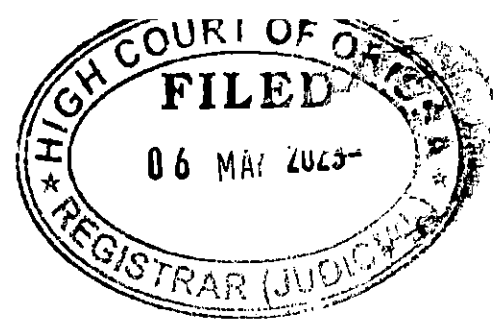
decided on 24.3.1992, thereby the past period of service of the opposite parties, which is required only to make them eligible for pension, shall be taken into consideration.”

9. That it is appropriate to mention here that there are conflicting Division Bench judgments on this score on the issue at hand. While the judgments passed in O.J.C. No.2147/1991 and W.P.(C) No.11503/2003 lays down that only so much of service rendered under the job contract establishment shall be reckoned as would be necessary for qualifying service for pension, the other Division Bench has referred to the order of the learned Tribunal passed in T.A. No.11/1993 and O.A. No.3020(C)/2003, both of which have been confirmed by the Hon'ble Apex Court. So far as T.A. No.11/1993 is concerned, the learned Tribunal on reference to Rule-23 of the Orissa Pension Rules, held that there is no mention therein about a job contract employee being subsequently brought to the regular establishment and held that the job contract employees who have been brought over to the regular establishment, the pension rules does not prohibit counting of past services rendered in the job contract establishment. Though the learned Tribunal referred to the decision of this Hon'ble Court in O.J.C. No.2147/1991 but directed to count the past service rendered by the petitioner in job contract establishment towards pension and pensionary benefits. Similarly the

learned Tribunal relying on the order passed in T.A. No.9/1993 allowed the prayer made in T.A. No.203/2003. It is profitable to mention that the learned Tribunal has relied upon Rule-23 of the Orissa Rules, 1977, but by the time the matter was decided the said Rule has been repealed upon coming into force the new Rules i.e. O.C.S. (Pension) Rules, 1992. Under the present scenario, the Hon'ble Single Judge relying on the order passed in O.A. No.3020(C)/2003 has allowed the writ petition and directed to grant him the benefit as has been granted to the applicant in O.A. No.3020(C)/2003. The said order is completely erroneous and in contravention of the settled principle of law.

10. That it is humbly submitted that though the respondent is not entitled to full pension as he stands on a different footing, but the Hon'ble Single Judge has directed to extend the benefits as has been granted to Nitya Nanda Biswal in terms of order passed in O.A. No.3020 of 2003.

Being aggrieved by the order dated 21.09.2022 passed by the Hon'ble Single Judge in W.P.C.(OAC) No. 2885 of 2018 under Annexure-1, the appellants beg to prefer this Appeal on the following amongst other;



**GROUND**

A. For that the impugned order is illegal, erroneous, arbitrary, contrary to law and as such the same is liable to be set aside.

B. For that, the Hon'ble Single Judge disposed of the writ petition at the stage of fresh admission vide order dtd. 21.09.2022 without issuing notice to the Opp. Parties-State, which resulted in denial of reasonable opportunity of hearing and produce relevant records by way of affidavit before the Hon'ble Court. Therefore, the order passed by the Hon'ble Single Judge is hit by the principle of natural justice.

C. For that while deciding the matter, the Hon'ble Single Judge has not taken into account the specific provisions made under Rule-18(6) of the O.C.S. (Pension) Rules, 1992 as the respondent has retired from service on 31.10.2014 and governed under the provisions of the said Rules. He not being governed under the 1977 Rules, the direction of the Hon'ble Single Judge to extend the benefits of order passed in O.A. No.3020(C)/2003 is not applicable to him.

D. For that the Hon'ble Single Judge failed to appreciate that when Rule-18(6) of the O.C.S. (Pension) Rules, 1992 speaks that job contract period shall be added to the period of qualifying service in regular establishment as would render him eligible for pensionary

benefits as the same is holding the field, the job contract period cannot be counted as qualifying service.

E. For that the impugned judgment has been rendered without referring to Rule 18(6) of the O.C.S. (Pension) Rules, 1992, the said order is completely erroneous and is in contravention of the statutory provisions laid down under the Rules. It is settled position of law that no direction can be issued by the Court to the authority to do something contrary to law.

F. For that the Hon'ble Single Judge while relying on the order passed in the case of Nityananda Biswal (supra) has not taken into account the ratio decided in the case of Settlement Class-IV Job Contract Employees Union (supra) as well as the order passed in W.P.(C) No.11503 of 2003.

G. For that the Hon'ble Single Judge failed to appreciate that in a number of cases the learned Tribunal relying on the order passed in the aforesaid writ petition, has dismissed the claim for extending the full pension taking into account the entire job contract period. In O.A. No.1290 of 2007, the learned Tribunal has observed as follows:

“As the scheme has been made to consider so much of period Job-Contract employment which falls short of the entitlement, the regular employee to get pension, the entire Job-Contract period cannot

be added to regular period. A particular person cannot be considered as a precedent nor can the applicant claim equality with that incumbent. This amounts to claiming counter equality. The applicant does not have any legal right to claim the entire period of Job-Contract service for the purpose of pension.

Whereas, in several cases like O.A. No.38/2009 filed by Priyabhusan Jena Vs. State of Odisha and others, O.A. No.174/2006 filed by Shyamsundar Nath Vs. State of Odisha and others, O.A. No.1828(C)/2004 filed by Hrudananda Sahu Vs. State of Orissa and others, O.A. No.824(C)/2008 filed by Dibakar Behera Vs. State of Odisha and others and O.A. No.2161 (C)/2004 filed by Madhabananda Biswal Vs. State of Odisha and others, the Hon'ble Tribunal has dismissed the claim of the applicants for extending benefits of full pension / family pension taking into account the entire Job-Contract period."

H. For that it is the settled principle of law that if a judgment rendered in ignorance of relevant statute of law, as per the *doctrine of per-incurium*, cannot set precedent. This ratio has been laid down by the Hon'ble Apex Court in the case of **State of Odisha and another Vs. Mamata Mohanty** [(2011) 3 SCC 436]. In that view of the matter the impugned order of the Hon'ble Single Judge in



directing to extend all such benefits in favour of the petitioner in terms of the directions given by the Courts as mentioned in the order, is not sustainable and is liable to be set aside.

I. For that it is the settled principle of law in the matter of applying precedents that the Court should not place reliance on decisions without discussing as to how the fact situation of the case before it fits in with the fact situation of the decision on which reliance is placed. The observations of the courts are neither to be read as Euclid's theorems nor as provisions of statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Disposal of cases by blindly placing reliance on a decision is not proper because one additional or different fact may make a world of difference between conclusions in two cases. In that view of the matter, the impugned order is bad in law and is liable to be set aside.

J. For that law is well settled that a party cannot claim that since something wrong has been done in another case, direction should be given for doing another wrong. If the impugned order will be implemented then the ambit of the OCS (Pension) Rules, 1992 and the amendment thereto will be struck down and will open the floodgates to thousands of such employees to come with undeserving claims and it will become an obligation on

the State leaving it in a drastic financial crisis which is irreparable.

K. 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 may graciously be 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 by the Hon'ble Single Judge in W.P.C. (OAC) No. 2885 of 2018 under Annexure-1 and further be pleased to pass any other order/orders as may be deemed fit and proper;

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

By the Appellants through

Cuttack

Date: 05/05/23

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

IN THE STATE ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

CUTTACK

O.A. No 2885 (C) /2018

In the matter of:

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

AND

In the matter of:

Rjkishore Routray ,aged about 64 years,  
Son of Late Gopinath Routray,  
At: Lokanathpur, P.O.-Asureswar,  
P.S.- Nischintakoili, Dist.Cuttack,  
Retd. Peon under Collectorate, Cuttack,  
At/ P.O./Dist- Cuttack.

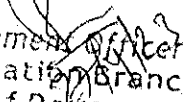
.....Applicant .

-Versus-

1. State of Orissa represented through its Secretary,  
Govt. of Orissa, Revenue & Disaster Management  
Department, Secretariate Building, Bhubaneswar,  
Dist. Khurda.
2. Director of Consolidation, Odisha,  
Board of Revenue, Cuttack, At/Po/Dist-Cuttack
3. Deputy Director of Consolidation, Cuttack Range-III,  
Cuttack, At/P.O./Dist- Cuttack.
4. Collector, Cuttack,  
At/P.O./Dist-Cuttack .
5. Accountant General (A & E), Odisha,  
Bhubaneswar, Dist. Khordha.

.....Respondents.

TRUE COPY ATTESTED

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

-17-

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 2885 of 2018

*Rajkishore Routray*

.....

*Petitioner*

*Mr. P.K. Mohapatra, Adv.*

Vs.

*State of Orissa and Others*

.....

*Opposite Parties*

*State Counsel*

**CORAM:**

**DR. JUSTICE B.R. SARANGI**

**ORDER**

**21.09.2022**

**Order No.**

01.

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

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*Page 1 of 2*

*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 petitioner 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 of the order.

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

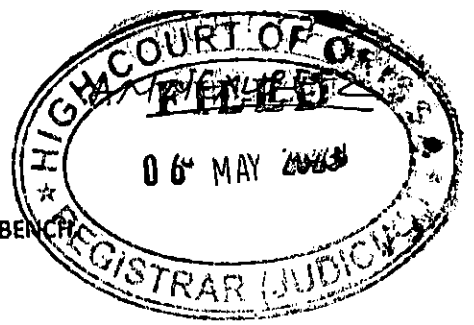
Issue urgent certified copy as per rules.

Ashok

(DR. B.R. SARANGI)  
JUDGE

TRUE COPY ATTESTED  
Establishment of  
Consolidation Branch  
Board of Revenue,  
Odisha, Cuttack.

- 19 -



IN THE STATE ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

CUTTACK

O.A. No 2885 (C) /2018

In the matter of:

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

AND

In the matter of:

Rjkishore Routray ,aged about 64 years,  
Son of Late Gopinath Routray,  
At: Lokanathpur, P.O-Asureswar,  
P.S.- Nischintakoili, Dist.Cuttack,  
Retd. Peon under Collectorate, Cuttack,  
At/ P.O./Dist- Cuttack.

.....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 Consolidation, Odisha,  
Board of Revenue, Cuttack, At/Po/Dist-Cuttack
3. Deputy Director of Consolidation, Cuttack Range-III,  
Cuttack, At/P.O./Dist- Cuttack.
4. Collector, Cuttack,  
At/P.O./Dist-Cuttack .
5. Accountant General (A & F), Odisha,  
Bhubaneswar, Dist. Khordha.

.....Respondents.

**1. PARTICULARS OF THE APPLICANT:**

(i to iv) : As per cause title

(v)Address for Service of : C/O P.K.Mohapatra, Advocate, all  
notices At. Darjee Sahi, P.O.Chandini chowk,Cuttack

**TRUE COPY ATTESTED**

*[Signature]*  
Establishment Officer,  
Consolidation Branch  
Board of Revenue,  
Odisha, Cuttack.

20

**2. PARTICULARS OF THE RESPONDENTS:**

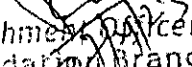
As per cause title

**3. PARTICULARS OF THE ORDER AGAINST WHICH APPLICATION IS MADE:**

- i) Order No.: Illegal and arbitrary discrimination in granting similar benefits of pension by counting the past
- ii) Date: services rendered by the applicant in job contract establishment towards pension and
- iii) Passed by: pensionary benefits despite the principles settled in O.A.No.1071©/2003,O.A.3020©/2003 upheld by the Hon'ble High Court and Apex Court in W.P.(c) No. 14244 of 2006& S.L.P.No.12573/2015 and the benefits granted to other similarly situated persons.
- iv) Subject in Brief:

In this original application, the applicant challenges the illegal action of the respondents in not granting similar benefits of full pension by counting his past period of service rendered under job contract estt. along with regular establishment despite the fact that the principles has already been settled in the case of Udhaba Chandra Nath and others and Nityananda Biswal, and their entire past service has been counted for purpose of pension. Such benefits has been granted pursuant to the decision of this Hon'ble Tribunal in O.A. No.1071(c)/2003 and O.A.No.3020©/2003. Although State Govt. went to the Hon'ble High Court in W.P.(C) No. 14244/2006,, but ,Hon'ble High Court dismissed the said Writ petition and has declared the entitlement of pension on the entire period of service by confirming the order of this Hon'ble Tribunal and then the Apex Court in S.L.P.No.12573/2015 has also confirmed the entitlement by dismissing the appeal of the State Govt. . The applicant being a similarly situated person and entitled to get the same benefit. Apart from that as per the Govt. decision vide letter dated 26.12.2016, 1st entry into J.C.service is to be counted for the purpose of seniority and grant of financial benefits on notional basis, but he has been discriminated to get same benefits.

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

**4. JURISDICTION:**

The original application is within the jurisdiction of the Hon'ble Tribunal.

**5. LIMITATION:**

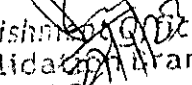
The application is within the period of limitation of the administrative tribunal rules.

**6. FACTS OF THE CASE:**

6.1. The applicant is a retired Peon under Collectorate, Cuttack. He has been deprived to get pension on the basis of his total period of service rendered under J.C. estt. and regular estt., whereas other similarly situated persons viz- Nityananda Biswal, Udhav Chandra Nath and others have already granted the benefits of pension as their entire period of service under J.C. estt. and regular estt. has already been counted towards pension and pensionary benefits pursuant to the principles decided in O.A.No.1071©/2003 and O.A.No.3020©/2003. The Stae Govt. although challenged the order passed in O.A.No.3020©/2003, but failed. The Hon'ble High Court has passed an order on 09.04.2014 in W.P.(c) No. 14244 of 2006 upholding the order passed by this Hon'ble Tribunal in O.A.No. 3020© /2003 for counting of entire J.C period of service towards pension. The Apex court has also confirmed the same in S.L.P.No.12573/2015 by dismissing the appeal of the state Govt. and now the principles decided in the aforesaid cases has already been implemented with due concurrence of Finance deptt. and the same is fully applicable to the case of the applicant and he is entitled to get pension on the basis of his entire past service under J.C. estt. along with regular establishment and also entitled to get financial benefits on notional basis as per the Govt. decision vide letter dated 26.12.2016 from the date of his 1st entry into J.C. service.

6.2 It is humbly submitted that, the applicant a retired Peon under the administrative control of Collector, Cuttack. He entered into service on 15.12.1978 as J.C. Chainman under the Dy. Director of Consolidation, Range-IV, Cuttack. While continuing as such, he was posted under Dy. Director of Consolidation, Cuttack Range-III. During his service period under J.C. estt., he had discharged his duties to the utmost satisfaction of his higher authorities without any allegation. For regularization of Job

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



-22-

Contract employees, the Hon'ble High Court of Orissa passed an order, which was challenged by the state Govt. before the Hon'ble Supreme Court in Civil Appeal No. 407/1993, wherein direction was issued to the State Govt. to prepare a Scheme and start the process of regularization within two month. The State Respondents instead of regularizing their services, remained silent and after much delay, filed a petition before the Hon'ble Apex Court seeking three months time in support of an undertaking through Affidavit that the process of regularization shall be started within 3 months and completed by the year 2000. But the respondents did not take any action.

True copy of the appointment order is filed herewith  
as Annexure-1.

6.2. It is humbly submitted that, after long lapse of time, the Board of Revenue vide order letter dated 16.10.2014 sponsored the name of the applicant to Collectorate, Cuttack for his absorption in regular post of class-IV. The Collector, Cuttack issued the order on 28.10.2014 absorbing him in the post of Peon (class-IV). Accordingly, the applicant joined in the regular post of Peon on 30.10.2014 upon being relieved from consolidation organization i.e. D.D. Range-III, Cuttack w.e.f. 30.10.2014 and retired from service on 31.10.2014 on attaining the age of superannuation.


True copy of the regular order dated 28.10.2014 is filed  
here with as Annexure-2.

True copy of the relieve order is filed herewith  
as Annexure-3.

True copy of the retirement order is filed herewith  
as Annexure-4.

6.3 The applicant after retirement has been granted minimum pension only on the basis of regular period of service and some J.C. period service, although he is entitled for full pension on basis of entire period of service both under J.C. estt. and regular estt. i.e. from 15.12.1978 to 31.10.2014, but he has been deprived to get pensionary benefits on the basis of entire period of service, whereas other persons similarly situated viz. Nityananda Biswal and Udhaba Chandra Nath and others have been granted full pension and full retirement benefit on the basis of entire

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

service period rendered under J.C.Establishment and regular establishment. The applicant being a similarly situated person and had made several approaches before the authorities for Counting his total period of service both J.C. and regular service and grant pension and pensionary benefits accordingly but, the respondents instead of counting his entire period of service remained silent, even repeated approaches of the applicant before his authorities was evoked no response. The applicant has also submitted several representations before his authorities, but did not take any action. Such action of the respondents is purely illegal, unethical, unconstitutional and violative of principles of natural justice.

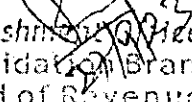
True copy of the pension order is filed herewith as

Annexure-5.

6.5 It is pertinent to mention here that, similar question arose in a batch of cases viz O.A.No. 1071@/2003 and 3020 @/2003 and this Hon'ble Tribunal has decided the issue about counting of entire J.C. period of service rendered under job contract establishment along with regular estt. towards pension and pensionary benefits and thereafter his pension be calculated and be drawn and disbursed within a stipulated period. The said order was challenged by the state of Odisha before the Apex Court in S.L.P.No. 13916/ 95, but the same came up to be dismissed by order dt.17.07.1995. Pursuant to the said order, the State Govt. in Revenue Deptt vide order dated 1.5.2009 directed the Director, L.R. & S and Settlement officer to grant revised pension and pensionary benefits. Accordingly the Settlement Officer, Dhenkanal calculated the entire period of service under J.C.Estt. and regular establishment and submitted the proposal to the Accountant General for sanction of full pension. Upon receipt of the same, the A.G., Orissa sanctioned revised pension and other retiral benefits in favour of Udhaba Chandra Nath and others after counting the entire J.C. period of service. Apart from that, other persons similarly situated have also been allowed the same benefits by virtue of the order of this Hon'ble Tribunal.

True copy of the order granting benefits to others is filed herewith as Annexure-6.

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

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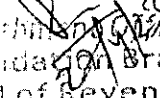
6.6. It is humbly submitted that, on the basis of the Principles decided in earlier cases, this Hon'ble Tribunal disposed of O.A.No. 3020© /2003 on 14.01.2004 wherein, direction was made to take into consideration the period of engagement under J.C.estt. while calculating qualifying service and accordingly his pension and other pensionary benefits due and admissible was directed to be revised and paid after adjusting the amount, if any already paid. The said order was challenged by the State respondents before the Hon'High Court in W.P.(c) No. 14244/2006 but the same has been dismissed vide order dt.09.04.2014. Thereafter, the said order was also challenged by the State respondents before the Hon'ble Supreme Court in S.L.P. No.12573/ 2015 , but the same has been dismissed. In view of dismissal of appeal case, the Director of L.R.S& Consolidation, Board of Revenue moved the matter to State Govt. for implementation and the state Govt. has passed the order allowing the benefits of full pension after obtaining the concurrence of Finance deptt..

True copy of the orders passed in similar case and letter of the respondent no.2 are filed herewith as Annexure-7 series.

True copy of the orders granting benefits to Nityananda Biswal is filed herewith as Annexure-8.

6.7 It is humbly submitted that, the claim of the applicant is directly covered by the principles decided by the Hon'ble Supreme Court in S.L.P.No.12573/2015 in the case of Nityananda Biswal as well as the benefits granted to other similarly situated persons and Udhaba Chandra Nath and others in O.a.No.1071©/2003, when concurred by the Finance Deptt.vide their U.O.R. No.23 CS III ,dated 12.2.2009. Apart from that, the Stae Govvenue and D.M. Deptt. in the meantime has decided vide their letter dated 26.12.2016 1st date of joining in J.C. cstt. shall be taken into account kfor the purpose of seniority in the regular post. Since the J.C. period service has been treated as qualifying service for the purpose of seniority , there is no difficulty to court the entire J.C. period service for the purpose of Pension. But despite that the applicant has been deprived to get same benefits despite his several request and approaches. Lastly, the applicant has ventilated his grievances before the respondent no.1 on 17.1.2018, but the same is pending.

TRUE COPY ATTEST..

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

-25-

True copy of the letter dated 26.12.2016 is filed herewith as Annexure-9.

True copy of the representation is filed herewith as Annexure-10.

6.8 It is humbly submitted that in the meantime the principles has already been settled and accepted by the State respondents for some of the employees similarly situated. The applicant being similarly situated should not have been discriminated. Since Article 16 of the Constitution provides that everybody have equal opportunity, if it is not followed, there would be unreasonable discrimination and violative of Article 14 of the Constitution. Therefore, the action of the State respondents in creating artificial discrimination among the retired employees and thereby not considering the grievance of the applicant is malafide, violative of principles of natural Justice and hit by Article 14 and 16 of the Constitution.

**7. Relief (s) Sought for:**


In view of the fact mentioned in para-6 above, the applicant prays for the following relief(s): -

- i) Direct the respondents to grant similar benefits of pension and pensionary benefits to the applicant by counting his entire past services rendered under Job Contract Estt. along with regular estt. in the light of the benefits given to other similarly situated persons as at annexure-6 series and 8 and in terms of the principles decided Vide Annexure- 7 series and 9 within a stipulated period with all arrear ;
- ii) Pass such other orders /directions as may be deemed fit and proper in the bonafide interest of justice.

**8. Interim order if prayed for:**

- (i) Direct/ order the respondent No.1 to consider his case vide annexure-10 for grant of similar benefits in terms of the order in annexure-6 series and 8 pending finalization of O.A.;

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

- (ii) Pass such other order (s)/direction(s) as would deemed fit and proper;

9. Details of remedies with exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc.

10. Matter not pending with any other court etc.

The applicant further declares that the subject matter regarding which this application is made is not pending in its present form in any Court.

11. Details of index: As attached earlier.

12. List of enclosures: As per index.

Verification

I, Rjkishore Routray, aged about 64 years,  
Son of Late Gopinath Routray, At: Lokanathpur, P.O.-Asureswar,  
P.S.- Nischintakoili, Dist.Cuttack, Retd. Peon under Collectorate,  
Cuttack, At/ P.O./Dist- Cuttack, do hereby verify that the contents made  
in Para 1-12 of the original applications are true to the best of my  
knowledge and belief and I have not suppressed any material facts.

*Rajkishore Routray*

Cuttack

Dt. . 2018

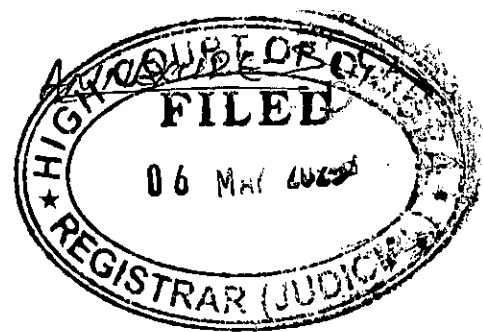
Verificant

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*[Signature]*  
Establishment Officer,  
Consolidation Branch  
Board of Revenue,  
Odisha, Cuttack

-97-

No. Pen-59/97-49296/F.,  
GOVERNEMENT OF ORISSA,  
FINANCE DEPARTMENT



OFFICE MEMORANDUM

Bhubaneswar, the 12<sup>th</sup> Dec, 1997.

Subj:- Counting of service rendered under the Job contract establishment towards pension.

The Service rendered under the Job Contract establishment which is paid from contingencies is not taken into account towards pensionary benefits under rule 18(2) (iii) of O.C.S.(Pension) Rules 1992. Further, under rule 21 of the said Rules, except in pensionable establishment, the service in Survey and Settlement organization will not be count for pension unless it is followed without interruption by qualifying service.

2. According to finance Department Resolution No. 22764/- dated 15.05.97, the Job contract employees appointed prior to 12.04.93 (after which there is a ban for engagement of such employee) under the administrative control of different Departments can be brought over to the posts created under regular/ pension establishment after completion of 10 years service as Job contract employees subject to fulfillment of certain conditions and stipulations outlined therein. According to the provisions contained in the said office Memorandum, the date of regularization shall be reckoned as the first appointment to the service for pension and other benefits. It has come to the notice of the Government that some of the Job contract employees are absorbed under the regular establishment almost towards the end of their service and become ineligible to get the pensionary benefits due to length of regular Government service in pensionable establishment. This has caused hardship to such type of employees.

3. The Hon'ble High Court of Orissa in their Judgment dt 24.01.92 in O.J.C. No. 2147/91 directed that "for the purpose of calculating the pensionary benefits, so much of their service period shall be reckoned, even if there had been breaks in their employment, so as to make them eligible for pension". The Hon'ble Orissa Administrative Tribunal have also in their judgment in O.A No. 1540(C)/96 have categorically directed to count that much period of Job contract service of the employees which will make them eligible for pensionary benefits.

4. After careful consideration of the matter, state Government have been please to decide that for the purpose of pensionary benefits only so much of their Job-Contract service period shall be added to the period of qualifying service in regular establishment as would render them eligible for pension. Addition of that portion of Job-Contract service shall not be counted for calculation of gratuity.

Sd/-K.B. Verma

Principal Secretary to Govt.

TRUE COPY ATTESTED

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

IN THE HIGH COURT OF ODISHA: CUTTACK

WA No. 981 OF 2023.

State of Orissa & Ors

Appellant/Petitioners

-Versus-

*Parghose Railway*

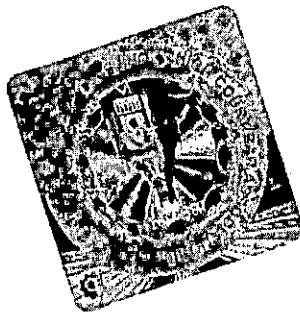
Respondent/Opp. Parties

APPEARANCE MEMO

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

CUTTACK

Dt. 5/5/23

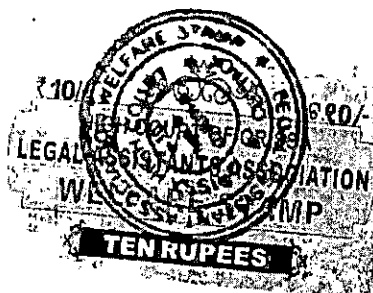
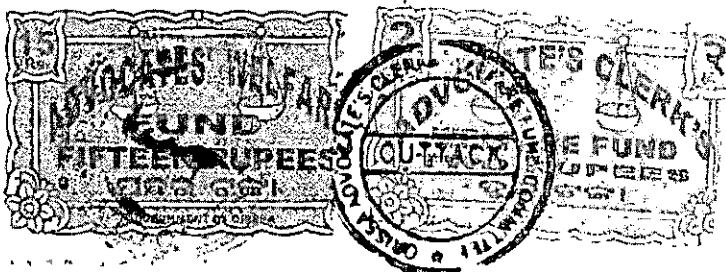


*Sukumar Ghose*  
Addl. Govt. Advocate/  
Addl. Standing Counsel

SUKUMAR GHOSE

EX. NO. 776/1988

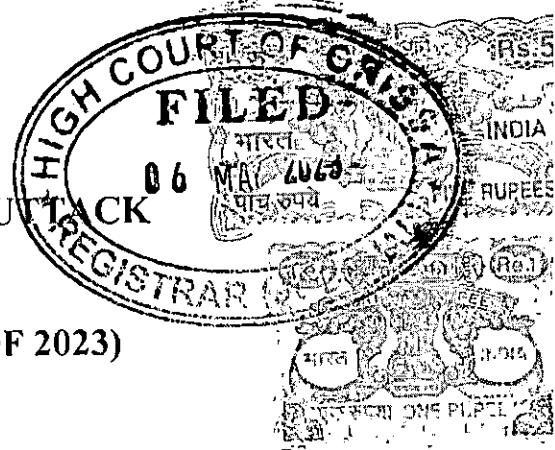
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IN THE HIGH COURT OF ORISSA: CUTTACK

I.A. NO. 2390 OF 2023

(Arising out of W.A. NO. 981 OF 2023)



In the matter of:

An application under Rule- 27(A)  
of Chapter-VI of Orissa High Court  
Rules for dispensing with the  
certified copy of the order dated  
21.09.2022 passed in W.P.C (OAC)  
No.2885 of 2018.

**And**

In the matter of:

State of Odisha and others .....Appellants.

-Vrs-

Rajkishore Routray .....Respondent.

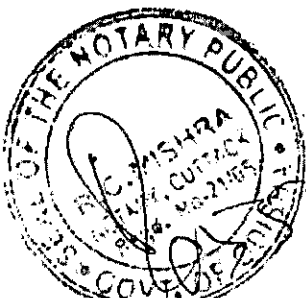
To

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

The humble petition of the  
petitioners named above;

**MOST RESPECTFULLY SHEWETH:**

1. That the petitioners as appellants in the above mentioned writ appeal have challenged the order dated 21.09.2022 passed by the Hon'ble Single Judge in W.P.C (OAC) No.2885 of 2018





2. That for better appreciation of facts, the contents of the writ appeal filed by the petitioners may kindly 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-1 to the writ appeal, passed in W.P.C (OAC) No.2885 of 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-1 to the writ appeal may kindly be dispensed with for the time being.

### P R A Y E R

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 under Annexure-1 to the writ appeal may kindly be dispensed with for 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.

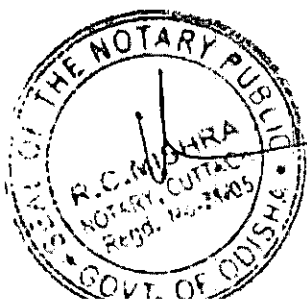
And for this act of kindness, the petitioners shall as in duty bound ever pray.

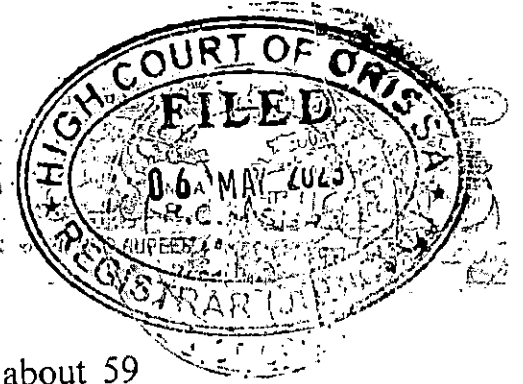
By the Petitioners through

*Sukun*  
GOVT ADVOCATE

CUTTACK.

DATE: 05/5/22 ADDL. STANDING COUNSEL

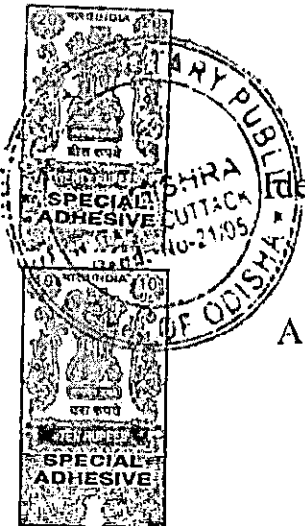




### AFFIDAVIT

I, Sri Bikash Chandra Mohapatra aged about 59 years, S/o- Late Satyananda Jena, at present working as Director, Land Records, Surveys & Consolidation, Board of Revenue, Odisha, Cuttack do hereby solemnly affirm and state as follows: -

1. That, I am the Appellant No.2 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:

Moham Behere  
A.C A.G.'s Office.

**DEPONENT**

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

### CERTIFICATE

Certified that due to non-availability of cartridge

Solemnly affirm on papers thick white paper are used in this petition.

at Cuttack on... being identified  
by...  
Advocate/AG's Clerk/A.G.'s office/Notary  
personally, that the above are  
true to the best of my knowledge.

DATE: 05/5/23

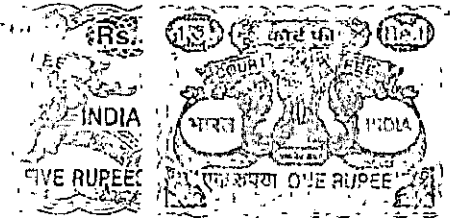
ADDL. STANDING COUNSEL

SUKUMAR GHOSH

RAMA CHANDRA MISHRA, NOTARY  
CUTTACK TOWN, REGD. NO-21/05

ENC NO-C-776/1988

M03-993783562



**IN THE HIGH COURT OF ORISSA: CUTTACK.**

I A No. 2391 / 2023

(Arising out of Writ Appeal No. 931 / 2023)

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:

State of Odisha and others ..... Appellants.

-Vrs-

Rajkishore Routray ..... Respondent.

[The matter out of which this writ appeal  
arises was before this Hon'ble Court in W.P.C  
(OAC) No.2885 of 2018, disposed of on  
21.09.2022]



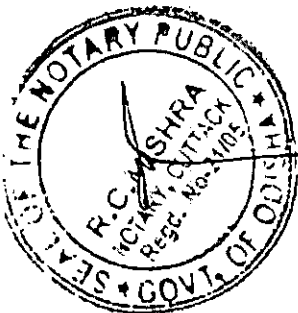
To

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 21.09.2022(Annexure- 1) passed by the Hon'ble Single Judge in WPC(OAC) No.2885 of 2018.
- 2 That, on receipt of order of Hon'ble High Court vide order dated 21.09.2022 in W.P.C(OAC) No.2885 of 2018 the Administrative Department, i.e. the Appellant No.1 considered the mater and found to be in the same footing like that of order dated 09.04.2014 passed by this Hon'ble Court in W.P.(C) No.14244 of 2006 in the matter of Nityananda Biswal -vrs- State of Orissa and others, where the Law Department has expressed the view to file writ appeal challenging the said order. Accordingly the Department of Revenue & D.M. (Appellant



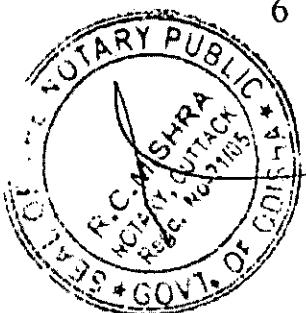
No.1) issued instruction to the Appellant No.2 vide letter No.3136 dated 25.01.2023 authorizing the Appellant No.2 to contact the Office of the learned Advocate General, Odisha, Cuttack for filing of a writ appeal taking into consideration the views of the Law Department. On receiving such letter from the Appellant No.1 the Appellant No.2 being the authorized person collected all the documents and vide his letter No. dated forwarded all the papers to the Office of the Ld. Advocate General Orissa, Cuttack with a request to file the writ appeal.

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.

4 That, the delay in filing the appeal was on account of procedural delay, i.e. 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.



- 21
- 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.

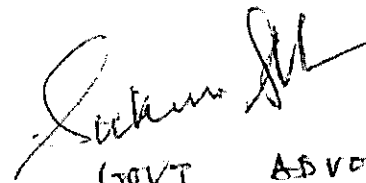
### P R A Y E R

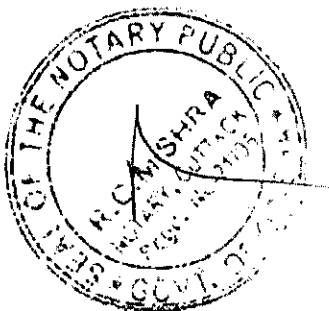
In the light of the above facts and circumstances, it is humbly prayed that your Lordships may graciously be pleased to condone the delay of 197 days in filing the appeal beyond the statutory period of limitation in the ends of justice And for this act of kindness the petitioners' / appellants shall as duty bound ever pray

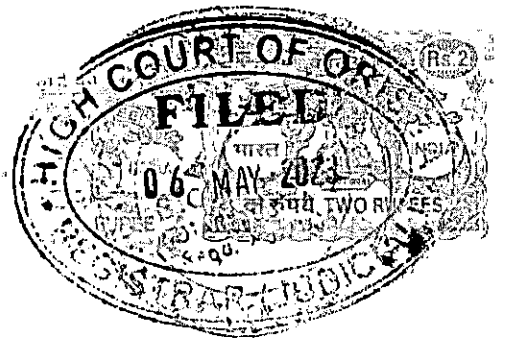
Cuttack

By the petitioners, through

Date: 5/5/23

  
GOVT ADVOCATE  
ADDL. STANDING COUNSEL

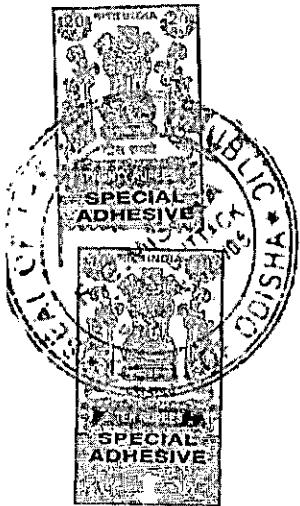




## AFFIDAVIT

I, Sri Bikash Chandra Mohapatra aged about 59 years, S/o- Late Satyananda Jena, at present working as Director, Land Records, Surveys & Consolidation, Board of Revenue, Odisha, Cuttack do hereby solemnly affirm and state as follows: -

1. That, I am the Appellant No.2 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

Moham Behar  
Advocate Clerk of A.G. Office

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

## CERTIFICATE

Due to lack of cartridge papers this is typed in

Solemnly affirm on thick white papers  
at Cuttack on ..... being identified  
by .....  
Advocate/Adv. Clerk/S. O. AG's office/Notary  
Personally. That the facts stated above are  
true to the best of his/her knowledge.

RAMA CHANDRA MISHRA, NOTARY  
CUTTACK TOWN, REGD. No-21/05

ADDL. STANDING COUNSEL  
SUKUMAR GHOSE  
FNO C 776/1988  
MOD - 9937835 830

IN THE HIGH COURT OF ORISSA: CUTTACK

I.A. NO. 2392 OF 2023

(Arising out of W.A. No. 931 of 2023)

In the matter of:

An application for stay, under Chapter-VI, Rule-  
27 (A) of the Orissa High Court Rules, 1948.

AND

In the matter of:

State of Odisha and others ... Appellants

-Versus-

Rajkishore Routray ... Respondent

To

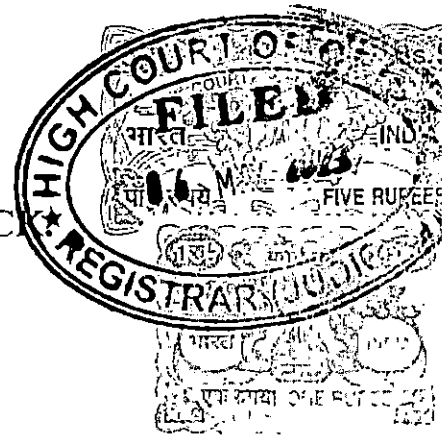
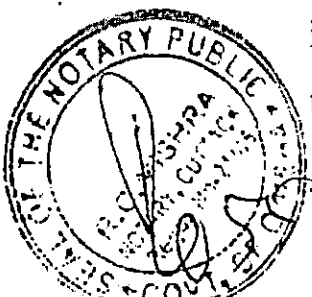
The Hon'ble Chief Justice and His Lordship's  
Companion Justices of the Hon'ble High Court  
of Orissa.

The humble petition on behalf of  
the Appellants above named;

**MOST RESPECTFULLY SHEWETH:**

1. That the appellants have filed the aforesaid  
appeal challenging the order dated 21.09.2022 passed  
by the Hon'ble Single Judge in W.P.C(OAC) No.2885  
of 2018 under Annexure-1.

2. That the detailed facts and circumstances stated  
in the writ appeal may kindly be considered as a part of  
this application.





3. That it is humbly submitted that the impugned order is illegal, arbitrary and not sustainable in the eye of law and is liable to be set aside.

4. That the appellants have a strong prima facie case and the balance of convenience lies in favour of the appellants.

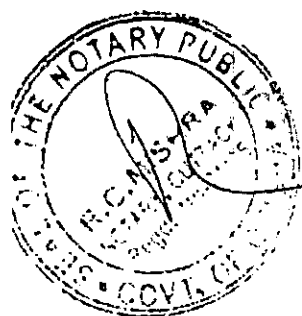
5. That unless the impugned order is stayed during pendency of the writ appeal, the appellants shall be highly prejudiced and shall suffer irreparable loss.

6. That in the interest of justice, the impugned order may kindly be stayed till disposal of the writ appeal.

### P R A Y E R

It is, therefore, humbly prayed that this Hon'ble Court may graciously be pleased to allow this application and pass necessary orders to stay the impugned order dated 21.09.2022 passed by the Hon'ble Single Judge in W.P.C(OAC) No.2885 of 2018 under Annexure-1 till disposal of the writ appeal and further be pleased to pass any other order/orders as this Hon'ble Court deems fit and proper.

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



CUTTACK.

Dt. 05/5/2023

By the Appellants through

ADDL. STANDING COUNSEL

## AFFIDAVIT

I, Sri Bikash Chandra Mohapatra aged about 59 years, S/o Late Satyananda Jena, presently working as Director, Land Records, Surveys & Consolidation, Board of Revenue, Odisha, Dist.-Cuttack do hereby solemnly affirm and state as follows:-

1. That, I am the Appellant No.2 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 :

*Moham Behera*  
A.C., A.G.'s office.

*Bikash Chandra Mohapatra*  
**DEPONENT**  
Director,  
Land Records Survey & Consolidation  
Board of Revenue, Odisha, Cuttack

## CERTIFICATE

Certified that Cartridge papers are not available.

Solemnly affirmed on oath by the Deponent at Cuttack on *NS-5-21* being identified by *Moham Behera* Advocate & Clerk of the Court for CUTTACK the facts stated above are true to the best of his/her knowledge.

DI. 05/5/2023  
RAMA CHANDRA MISHRA, NOTARY  
CUTTACK TOWN, ODISHA

*Sukumar Ghose*  
**ADDL. STANDING COUNSEL**

**ADVOCATE**  
**SUKUMAR GHOSE**  
FAC No-01 776/1988  
MOB-99878 35630

**SCANNED**

**COMPUTERISED FILING COUNTER  
ORISSA HIGH COURT,CUTTACK  
ACKNOWLEDGEMENT SLIP**

**Seat No : 6**

**Branch No : WRIT APPEAL**

**Receipt No : 135907/2024**

**Date Of Receiving : 04/11/2024**

**Time : 05:19:27 PM**

**Filing No : WA 931/2023**

**Case No : WA 931/2023**

**Received From : Petitioner**

**Filed By: ADVOCATE FOR THE PETITIONER**

**Document(s) Filed :**

**1- REQUISITE FOR OPS --- Postal Fee -Rs.40**

**IN THE HIGH COURT OF ORISSA: CUTTACK**

**W. A No. 931 of 2023**

State of Orissa & Ors

...

.....

Appellants

-Versus-

Rajkishore Routray

.....

.....

Respondents

**MEMO**

Postage stamp of Rupees 40/-(Rupees Forty) only, along with written process and the copy of limitation filed herewith for service of notice on Respondent in limitation matter in the aforesaid appeal through Registered post with AD.

Cuttack

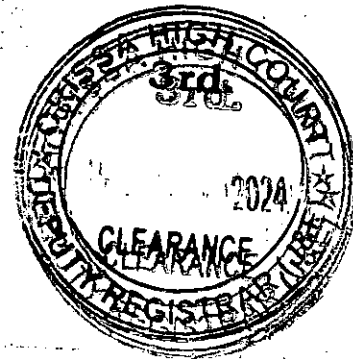
Date- 04.11.2024

MOB NO: 9237183713



ASC

For the Appellant



**SCANNED**

**COMPUTERISED FILING COUNTER  
ORISSA HIGH COURT,CUTTACK  
ACKNOWLEDGEMENT SLIP**

**Seat No : 6**

**Branch No : WRIT APPEAL**

**Receipt No : 148737/2024**

**Date Of Receiving : 05/12/2024**

**Time : 04:57:41 PM**

**Filing No : WA/931/2023**

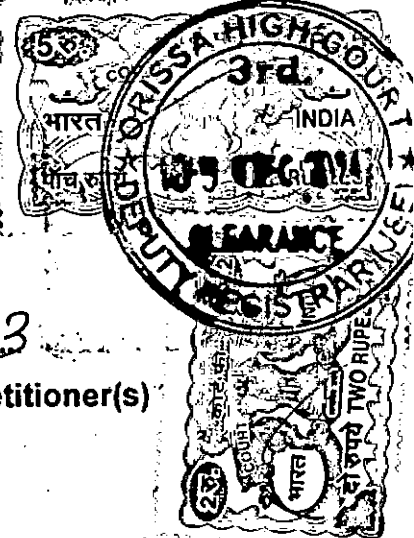
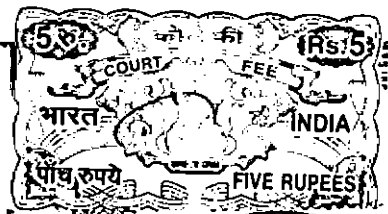
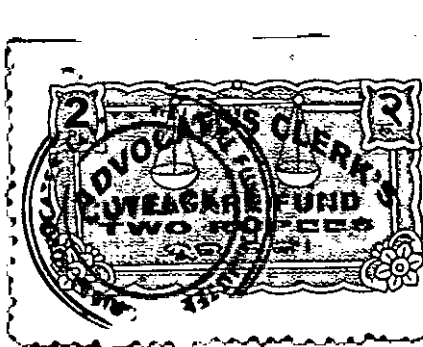
**Case No : WA/931/2023**

**Received From : Respondent (1)**

**Filed By: M/S PRAFULLA KUMAR MOHAPATRA**

**Document(s) Filed :**

**2- Vakalatnama --- Court Fee -Rs.12 (36069/2024)**



# FORM OF VAKALATNAMA

IN THE HIGH COURT OF JUDICATURE ORISSA, CUTTACK

W.A. WP(C) / No. 931 of 2023

State of Odisha & others Petitioner(s)

-VERSUS-

Rajakishore Routray Opp. Party(ies)

36069

Know all men by these presents, that by this Vakalatnama

I/We Rajakishore Routray S/o - Late Gopinath Routray At - Lokanath P.O. Asmeswar B. Michintawar Dist - Cuttack. Retd. Bsn. under collectorate Cuttack. At P.O. Dnt - Cuttack (RESPONDENT NO. 1)

Appellant/ Respondent/ Petitioner / Opp. party in the application / Writ Case do hereby appoint and retain **PRAFULLA KUMAR MOHAPATRA** (Advocate), En. No. O - 141/1990  
Mobile No. 9437067454, **SAUBHAGYA CHANDRA SAHOO** (Advocate) En. No. O - 470/2007  
Mobile No. 9777492518,

At Darjee Sahi, P.O.- Chandinichowk, Dist. : Cuttack-453002 Advocate (s) to appear for me/us in the above case and to conduct and prosecute (or defend) the same and all proceeding that may be taken in respect of any application connected with the same, or any decree or other passed therein including all applications for return of documents or receipt of any money that may be payable to me/us in the said case and also in applications for review appeals under Orissa High Court Order and in application for leave to appeal to Supreme Court. I/We authorise my/our Advocate (s) to admit any compromise lawfully in the said case.

Dated 5-12-2024

Received from the executant (s)  
Satisfied and accepted as I hold  
no brief for the other side.

Advocate

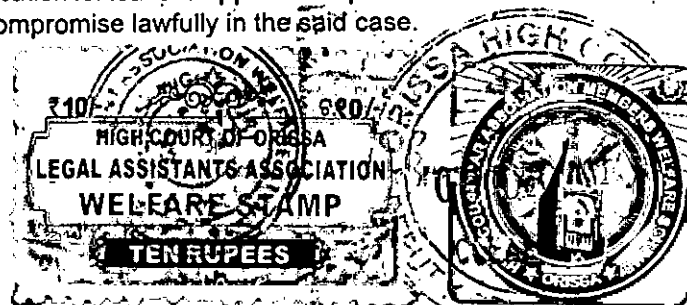
Accepted as above

Advocate

Accepted as above

Advocate

Accepted as above



Rajakishore Routray

Signature of Executant