

(2025) 09 OHC CK 0878

In the Orissa High Court

Case No : Writ Petition (C) No. 11588, 11592 Of 2022

Kabitarani Mohanty

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 20-09-2025

Acts Referred:

Odisha Civil Services (Pension) Rules 1992 — Rule 52

Citation : (2025) 09 OHC CK 0878

Hon'ble Judges : Biraja Prasanna Satapathy, J

Bench : Single Bench

Advocate : U.C. Mohanty, A. Tripathy, D.K. Panda

Final Decision : Disposed Of

Judgement

Biraja Prasanna Satapathy, J

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel appearing for the parties.

Since the issue involved in both the Writ Petitions are interrelated, both the matters were heard analogously and disposed of with the present common order.

3. While Writ Petition No.11588 of 2022 has been filed inter alia with a prayer to direct the Opposite Parties to revive the order of regularization of the Petitioner so issued on 07.09.2001 under Annexure-6 in accordance with the order passed by the Tribunal in O.A. No.340 of 1994, with quashing of the orders issued under Annexures-9, 18, 19 and 21 and sanction of consequential benefits, W.P.(C) No.11592 of 2022 has been filed with similar prayer but with another prayer to condone the break period from 2005 to 2007 for the purpose of sanction of pension (wrongly typed as Family Pension) under the old Rule.

4. It is the case of the Petitioner that Petitioner was engaged as an Asst. Librarian on daily wages basis in the establishment of Opposite Party No.3 on 20.09.1988. Petitioner while so continuing on daily wages basis, Petitioner was

disengaged on 01.07.1990. Subsequently, Petitioner though was reengaged on 17.07.1991, but was again disengaged on 09.06.1992. However, Petitioner was again re-engaged on 01.07.1992 on daily wages basis and was allowed to continue as such. Opposite Party No.4 was also similarly engaged and disengaged like the Petitioner, till both of them were allowed to continue w.e.f. 01.07.1992 as reflected in Annexure-2.

4.1. It is further contended that Petitioner along with Opposite Party No.4 while so continuing on daily wage basis, they were engaged on ad-hoc basis w.e.f. 26.07.1993 under Opposite Party No.3. Not only that while so continuing on-ad hoc basis, Petitioner was allowed to draw revised scale of pay as against the post of Asst. Librarian vide order dtd.20.03.1999 w.e.f. 01.01.1996 along with Opposite Party No.4 under Annexure-3. Petitioner along with Opposite Party No.4 while so continuing on ad-hoc basis w.e.f. 26.07.1993, 19 posts of Asst. Librarian were created vide O.O. No.6594 dtd.05.08.1993.

4.2. It is contended that on the face of such continuance on daily wages basis and on ad hoc basis w.e.f. 26.07.1993 with due creation of 19 posts of Asst. Librarian vide order dtd.05.08.1993, when Petitioner nor Opposite Party No.4 were regularized, both of them along with two (2) others approached the Tribunal in O.A No.340 of 1994, seeking regularization of their services. The Tribunal disposed of O.A. No.340 of 1994 along with other batch of OAs vide order dtd.16.05.2000 inter alia directing the authorities to regularize the services of the applicants therein, if the performance is satisfactory under Annexure-4.

4.3. It is contended that in terms of the order so passed by the Tribunal under Annexure-4, the Committee so constituted in its proceeding dtd.25.08.2000 under Annexure-5 took the following decision:-

"The Committee considered the following ad hoc DLR cases in different categories as per their performances and roster points of reservation for appointments to the posts of Asst. Librarians. The performances of all the ad hoc/ DLR employees were evaluated by the Committee with reference to the reports and recommendations of the Librarian of H.K.M State Library.

Sl. No.

Name

Category

1.

Smt. Salita Patra

General

2.

Smt. Kabitarani Mohanty

General

3.

Smt.Kanthamani Biswal

SEBC

4.

Smt. Manjurani Muduli

General

Since no S.T. candidate is available, it is recommended that Smt. Manjurani Muduli will continue against ST quota on 44 days basis till the post is filled up on regular basis as per the judgment."

4.4. It is contended that in terms of the decision taken by the Committee in its proceeding dtd.25.08.2000, Petitioner vide order dtd.07.09.2001 under Annexure-6 was appointed as against the post of Asst. Librarian with regular scale of pay. After such appointment on regular basis, Petitioner was allowed to continue under the provisions of GPF Rules, 1938 and necessary subscription was deducted from her monthly salary.

4.5. It is contended that while the matter stood thus, challenging the order of regularization issued in favour of the Petitioner on 07.09.2001 under Annexure-6, Opposite Party No.4 approached the Tribunal by filing O.A. No.1697 of 2001. The said O.A was disposed of vide order dtd.03.02.2004 under Annexure-8-Series, inter alia with a direction that applicant therein / Opposite Party No.4 be regularized with retrospective effect i.e. from the date of regularization of the present Petitioner. The Tribunal further passed the order to accommodate the present Petitioner in any subsequent regular vacancy as an Asst. Librarian. Order of the Tribunal so contained in Para-5 reads as follows:-

"5. From the extract of the performance report of all four persons given by the Librarian, H.K.M.State Library it is crystal clear that Smt. Kabitarani Mohanty's performance in all respect is just satisfactory whereas the performance of Manjurani Muduli has been categorized as very good in all respect, The qualification the applicant and respondent no. 4 (Kabitarani Mohanty) is also the same i.e. B.A., B. Lib.& Inf.Sc. Smt. Kabitarani Mahanty joined as a Skilled (Tech.) on 16.07.1991 and Smt. Manjurani Muduli (applicant) also joined on 18.7.1991. Both of them belong to general category. Therefore on comparative merit the applicant's service as Asst. Librarian is to be regularized before regularization of service of Smt. Kabitarani Mohanty. This conclusion is supported by the finding of the Selection Committee. The relevant para is reproduced as under:-

"The Committee considered the following ad hoc/DLR cases in different categories as per their performance and roster points of reservation for

appointments to the posts of Asst. Librarians. The performance of all the ad-hoc/ DLR employees were evaluated by the Committee with reference to the reports and recommendations of the Librarian of H.K.M. State Library".

No justification/ whatsoever has been given in the proceedings of the selection Committee Meeting to recommend the case of the applicant who is undoubtedly more meritorious than respondent no.4 for continuing in the service against S.T. quota on 44 days basis till the post is filled up by regular basis. In the proceeding neither any reason nor justification nor any legal ground has been brought out to ignore the rightful claim of the applicant whose performance was found to be very good by recommending the regularization of service of respondent no. 4 whose performance was found to be just satisfactory in all respect and the qualification of both the applicant and respondent no.4 is same and also in the date of joining there is no much difference. Under the circumstance we fully agree with the contention of the applicant that the finding of the Selection Committee meeting dated 25.8.2000 is not correct and legal and therefore the regularization of service of respondent no. 4 ignoring the rightful legal claim of the applicant for regularization of her service is also illegal and improper and therefore this cannot be sustained. We are also fully satisfied that this finding of the selection Committee is neither fair nor just nor proper and therefore the regularization of service on the basis of the said report cannot be upheld. In view of this factual position, we direct that the services of the applicant Smt. Manjurani Muduli should be regularized giving retrospective effect i.e. with effect from the date regularization of service of respondent no.4. Since respondent no. 4 is working for a long time in the said post the respondents will do well to accommodate her in any subsequent regular vacancy of Asst. Librarian. So far the financial benefit is concerned, we also direct that Smt. Manjurani Muduli pay as Asst. Librarian should be fixed from the date of her regularization of service as ordered earlier in this order and her pay should be fixed giving increments as due and admissible without any arrear pay."

4.6. Learned counsel appearing for the Petitioner contended that in view of such nature of order passed by the Tribunal in O.A. No.1697 of 2001, Opposite Party No.4 vide order dtd.24.05.2004 under Annexure-9 was regularized w.e.f. 07.09.2001 and Petitioner was allowed to continue on 44 days basis in the establishment of Opposite Party No.3 against a S.T vacancy w.e.f. the date of issuance of the order. Order dtd.24.05.2004 reads as follows:-

"Administrative Tribunal, Cuttack Bench in their order dt.3.2.2004 in O.A No.1697(C) 2001 filed by Smt. Manjurani Muduli have observed the following points i.e.

- a) The services of applicant Smt. Manjurani Muduli should be regularized giving retrospective effect i.e. with effect from the date of regularization of services Respondent No.4, Smt. Kabitarani Mahanty.
- b) Since respondent No.4 is working for a long time in the said post the

respondents will do well to accommodate her in any subsequent regular vacancy of Asst. Librarian.

Since at present there is no vacancy in the post of Asst. Librarian in the general category available in the State Library, Bhubaneswar, it is decided to allow Smt. Kabitarani Mohanty to continue as Asst. Librarian on 44 days basis against S.T. vacancy, till the post is filled up by a S.T. candidate on regular basis or her service is accommodated in the subsequent vacant post of Asst. Librarian whichever is earlier.

Now in pursuance of the order of the Hon'ble O.A.T., Cuttack Bench, Cuttack and as per the terms and conditions of appointment order No.11043 dt.7.9.2001, the services of Smt. Kabitarani Mohanty as Asst. Librarian in H.K.M. State Library, Bhubaneswar is hereby discontinued with effect from the date of issue of this office order. She is hereby appointmented as Asst. Librarian on 44 days basis against S.T. vacancy with effect from the date of issue of this order”.

4.7. Learned counsel appearing for the Petitioner contended that challenging the order passed in O.A No.1697 of 2001, Petitioner approached this Court by filing W.P.(C) No.6274 of 2005. This Court vide order dtd.05.01.2012 under Annexure-14, directed the Secretary Department of Tourism and Culture to take appropriate step for implementation of the order of the Tribunal and regularize the petitioner as against one of the post so lying vacant. Order dtd.05.01.2012 reads as follows:-

“Heard learned counsel for the petitioner, learned counsel for the State and Mr. Aswini Mishra, learned counsel appearing for opposite Party No.4.

The petitioner in this writ petition with P. No.4 before the Orissa Administrative Tribunal, Cuttack Bench, Cuttack and challenges the order passed in O.A. No. 1607(C) of 2001. This writ petition was filed in the year. 2005. In the meantime, six years have already elapsed, Mr. Aswini Mishra, learned counsel for OP. No. 4 submits that due to superannuation of the employees like Smt. P. Lalitha Ratnakumari, Sri Sharat Chandra Sahu, Sri Surendranath Samal, Sri Kshirod Prasad Mohanty, Smt. Namita Patnaik, Sri Debraj Meher and Smt. Kirtiprava Meher their posts are lying vacant. So the order of the Tribunal should be implemented as the State Government has not challenged the said order.

In view of the above, we, dispose of this, writ petition directing the Secretary to Government, Department of Tourism and Culture (O.P. No.1) to take appropriate steps for implementation of the order of the Tribunal and regularize the petitioner in one of the posts lying vacant as indicated above and accordingly regularize O.P. No.4 in terms of the order of the Tribunal.

The learned counsel for the petitioner submits that the salary for the period the petitioner has worked despite our orders dated: 19.5.2009 and 7.12.2011 has not been paid, which, in our considered opinion, is contemptuous. The salary be paid within seven days hence and the Director of Culture, Orissa (O.P. No.3) is

directed to file compliance report. Let the entire process be completed within a period of three months from today.

Issue UCC as per rules.”

4.8. Learned counsel appearing for the Petitioner contended that Petitioner seeking review of the order dtd.05.01.2012 filed Review Petition No.79 of 2012. The Review Petition was disposed of vide order dtd.11.04.2019 under Annexure-C/1-Series to the counter affidavit filed by Opposite Party Nos.1 to

3. Vide the said order, this Court while reviewing order dtd.05.01.2012, held that the order passed by the Tribunal on 24.05.2004 in O.A No.1697 of 2001 is required to be quashed and accordingly while setting aside the same, directed the Committee to take a decision in terms of the order passed by the Tribunal in O.A. No.305 of 1993, subsequently corrected as O.A. No.340 of 1994 vide order dtd.16.08.2019 under Annexure-C/1-Series.

4.9. Learned counsel appearing for the Petitioner contended that challenging the order passed on 11.04.2019 in the Review Petition, Petitioner though moved the Hon’ble Apex Court by filing SLP (Civil) Diary No.33554 of 2019, but Hon’ble Apex Court vide order dtd.16.10.2019 under Annexure-16, while not interfering with the order passed by this Court, observed as follows:-

“The case of the Petitioner will now be considered by the Committee in view of the order passed in earlier O.A. No.340 of 1994”.

4.10. It is however contended that prior to passing of the order in Review on 11.04.2019 and the observation made by the Apex Court in its order dtd.14.10.2019 under Annexure-16, Opposite Party No.1 vide its order dtd.20.02.2019 under Annexure-17, appointed the Petitioner as an Asst. Librarian on regular basis, but w.e.f. 01.05.2008, subject to outcome of the Review Petitions, so filed by the Petitioner in RVWPET No.79/2012 with the following terms and conditions:-

“1. Her pay in the post of Asst. librarian shall be fixed notionally w.e.f. 01.05.2008 the date of regularization of service and she shall not be entitled to the arrears of differential pay on account of such pay fixation. The financial benefits will be g to Smt. Mohanty w.e.f the date she actually joins the post on the basis of this order.

2. The appointment is purely temporary and terminable at any time without prior notice and without assigning any reason thereof.

3. The overage of Smt. Kabitarani Mohanty for entry into Govt. Service is hereby condoned under Rule 52 of Orissa Service Code.

4. The appointment is subject to verification of her antecedents by the police.”

4.11. It is contended that on the face of the order passed on 11.04.2019 in Review and the order passed by the Apex Court under Annexure-16, when no

consequential action was taken to carry out the direction, Petitioner approached this Court in W.P.(C) No.3646 of 2021. Pursuant to the order passed on 15.03.2021 coupled with the order passed in Review and the observation of the Apex Court, though the Committee took up the issue in its proceeding dtd.30.03.2021, but upheld the order passed in favour of Opposite Party No.4 on 24.05.2004 under Annexure-9 and order passed on 21.02.2019 in the case of the Petitioner under Annexure-17. Accordingly, vide order dtd.18.09.2021 under Annexure-18, Petitioner's date of regularization was taken notionally w.e.f. 01.05.2008 and that of Opposite Party No.4 notionally w.e.f. 10.09.2001.

4.12. It is contended that vide order dtd.24.05.2004 under Annexure-9, Opposite Party No.4 though was regularized in place of the Petitioner w.e.f. 10.09.2001, but Petitioner on the face of S.T vacancy available, was engaged on 44 days ad hoc basis. Subsequently in terms of the order originally passed on 05.01.2012 in W.P.(C) No.6274 of 2005 under Annexure-14, Petitioner vide order dtd.21.02.2019 under Annexure-17 was regularized w.e.f. 01.05.2008 against a vacant UR post notionally. However benefit of regularization in favour of Opposite Party No.4 w.e.f. 10.09.2001 and in favour of the Petitioner w.e.f. 01.05.2008 was upheld vide order dtd.18.09.2021 under Annexure-18, basing on the proceeding of the meeting dtd.30.03.2021 under Annexure-20. The Committee in terms of the order passed in Review and the observation of the Apex Court coupled with the order dtd.05.04.2021 under Annexure-21 took such a decision.

4.13. Learned counsel appearing for the Petitioner contended that in view of the nature of order passed by Opposite Party No.2 on 24.05.2004 under Annexure-9, since a vacancy as against the post of Asst. Librarian meant for ST category was available by that time, instead of regularizing the Petitioner against a UR vacancy w.e.f. 01.05.2008, Petitioner could have been regularized w.e.f. from the date of order dtd.24.05.2004, on notional basis against the vacant ST post and w.e.f. 01.05.2008 against the vacant UR post.

4.14. It is also contended that such ST vacancy was never filled up, till Petitioner was absorbed as against the UR vacancy w.e.f. 01.05.2008 in terms of the order dtd.20.02.2019 under Annexure-17 and further order passed on 18.09.2021 under Annexure-18.

4.15. It is accordingly contended that since the post of Asst. Librarian so meant for ST candidate was never filled up till Petitioner was regularized w.e.f.01.05.2008 against a UR vacancy, Petitioner can very well be adjusted as against the said vacancy w.e.f. 24.05.2004 and thereby entitling her to get the benefit of pension and other pensionary benefits under OCS (Pension) Rules, 1992 as well as coverage under GPF Rules 1938 by reviving order dtd.07.09.2001. It is accordingly contended that Petitioner be regularized as against the post of Asst. Librarian notionally against the S.T vacancy w.e.f. 24.05.2004 and against the UR vacancy w.e.f. 01.05.2005 with extension of all service and financial benefits as due and admissible.

5. Mr. A. Tripathy, learned Addl. Government Advocate for the State on the other hand made his submission basing on the stand taken in the counter affidavit. While supporting the order passed in the case of the Petitioner under Annexure-17 and 18, learned AGA contended that since by the time pursuant to the order passed by this Court and further order passed by the Hon'ble Apex Court, no post was vacant in UR category as against the post of Asst. Librarian on promotion, and such a UR vacancy only arose w.e.f. 01.05.2008, Petitioner was regularized as against the said post w.e.f. 01.05.2008 vide order dtd.20.02.2019 under Annexure-17 and further order passed on 18.08.2021 under Annexure-18, basing on the decision of the Committee taken in its proceeding dtd.30.03.2021 under Annexure-20. Basing on the decision of the Committee so taken under Annexure-20, regularization of Opposite Party No.4 w.e.f. 10.09.2001 vide order dtd.24.05.2004 under Annexure-9 was kept upheld.

5.1. It is accordingly contended that since after regularizing Opposite Party No.4 w.e.f. 10.09.2001 vide order dtd.24.05.2004 under Annexure-9, there was no further vacancy available in UR category as against the post of Asst. Librarian, Petitioner's claim for absorption w.e.f. 07.09.2001 notionally is not at all entertainable.

6. Considering the materials available on record and the rival stand taken by the respective parties, this Court passed the following order on 02.09.2025.

"1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard learned counsel appearing for the parties.

3. Considering the materials available on record and the fact that Petitioner vide order available under Annexure-9 was again re-appointed as against the post of Asst. Librarian in a vacancy meant for S.T candidate on 44 days basis, this Court directs learned Addl. Govt. Advocate to obtain instruction as to whether that ST vacancy was filled up at any point of time till 01.05.2008.

4. As requested by the learned Addl. Govt. Advocate, list this matter on 19.09.2025.

5. Free copy of this order be provided to Mr. A. Tripathy, learned Addl. Govt. Advocate for compliance."

7. Pursuant to such order, learned AGA produced the instruction so provided by the Department vide letter dtd.17.09.2025. In the said instruction, it has been clearly indicated that ST vacancy as against the post of Asst. Librarian remained vacant for the period from 2004 to 01.05.2008. Instruction so provided reads as follows:-

"In continuation of this Office Letter NO.1475/HKMSL, Dtd.09.09.2025 with reference to the letter on the subject cited above, I am directed to say that ST post of Assistant Librarian was lying vacant in the HKM State Library and no post of Assistant Librarian was filled up against the vacancy of ST post in the HKM

State Library, Bhubaneswar during the period from 2004 to 01.05.2008”

8. Basing on the instruction, learned counsel appearing for the Petitioner contended that since there was clear vacancy available as against the ST post w.e.f. 2004 till 01.05.2008, Petitioner be regularized as against the S.T. vacancy w.e.f. 24.05.2004 and against the UR vacancy w.e.f. 01.05.2008 and thereby enabling the Petitioner to be covered under OCS (Pension) Rules, 1992. It is also contended that Petitioner after her regularization vide order dtd.7.9.2001 was allowed to be covered under GPF (O) Rules, 1938 allthrough.

9. Mr. D.K. Panda, learned counsel appearing for Opposite Party No.4 contended that if this Court will allow regularization of the Petitioner from the date the ST vacancy is available without interfering with the order of regularization of Opposite Party No.4 so made w.e.f. 10.09.2001, Opposite Party No.4 has got no grievance.

10. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds that Petitioner while continuing as an Asst. Librarian on daily wages basis and subsequently on ad-hoc basis, basing on the order passed by the Tribunal on 16.05.2000 in O.A. No.340 of 1994 under Annexure-4, she was regularized w.e.f. 07.09.2001 vide order dtd.07.09.2001 under Annexure-6. Such an order was passed in terms of the decisions of the Committee held on 25.08.2000 under Annexure-5.

10.1. However, basing on the order passed by the Tribunal on 03.02.2004 in the Original Application filed by Opposite Party No.4 in O.A No.1697 of 2001 under Annexure-8-Series, order of regularization issued in favour of the Petitioner on 07.09.2001 under Annexure-6 was cancelled and in her place, Opposite Party No.4 was regularized as against the post of Asst. Librarian w.e.f. 07.09.2001 and Petitioner was allowed to continue on ad-hoc basis against a vacant ST post, vide order dtd.24.05.2004 under Annexure-9.

10.2. It is found that Petitioner challenging such order of the Tribunal approached this Court by filing W.P.(C) No.6274 of 2005. This Court vide order dtd.05.01.2012 under Annexure-12, passed an order to take appropriate step for implementation of the order passed by the Tribunal in O.A. No.340 of 1994 and to regularize the Petitioner in one of the vacant posts due to superannuation of the employees like Ms. P. Lalitha Ratna Kumari, Sri Sarat Chandra Sahu, Sri Surendera Nath Samal, Sri Khirod Prasad Mohanty, Smt. Namita Pattnaik and Kirti Prava Maher.

10.3. As found Petitioner seeking review of the order dtd.04.05.2012, approached this Court by filing a review in RVWPET No.79 of 2012. The review was disposed of by this Court vide order dtd.11.04.2019 inter alia with the following observations and directions:-

“By way of this petition, the petitioner challenges the impugned order dated 03.02.2004 passed by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack

in O.A.1697(C) of 2001, whereby the learned Tribunal while considering the case of the original applicant (opposite party No.4 herein), has travelled beyond the prayer, which are claimed by the applicant in O.A., which reads as under:

"7. Relief claimed :- Under the circumstances it is humbly prayed that the Honourable Court may be pleased to direct the opposite parties to consider the case of the petitioner for the post of Asst. Librarian taking into consideration the performance of the petitioner as Asst. Librarian and also to consider the case of the petitioner taking to consideration the performance of the petitioner as Assistant Librarian as per the judgment and direction in O.A. No. 340/94."

Apart from that, it is also contended that the Tribunal has also violated the direction issued by the Tribunal in O.A. No.305 of 1996, a connected matter disposed of on 16th May, 2000, wherein the Tribunal in its direction in paragraphs-4 and 5, observed as under:

"4. The applicant in O.A. 1925/94 is working as Junior Clerk cum typist for which recruitment is to be conducted in accordance with the OMS Rules, 1985. Regarding the remaining posts it appears that there are no statutory Rules except the Resolution referred to above according to which only 50% of the vacancies of Assistant Librarian are meant for direct recruitment. The applicants have put in long years of service in the Library both as DLA employees and in ad hoc capacity. The posts were also created to facilitate their regular appointment. Though it is averred by the State -2 Respondents that some of the applicants did not qualify in the interview held for posts of Assistant Librarian in December, 1990 yet they have been allowed to hold those posts after creation of posts in 1993. Hence following the ratio of the earlier decision of the Tribunal in O.A. 544/89 decided on 21.11.95 in the case of Bhajan Ku. Samal & 56 others vs. State of Orissa, reported in (1996) 1 ATT (OAT)366 we would dispose of the application with the direction that the performance of these applicants during the period of their ad hoc service be evaluated by a committee consisting of the Director of Culture and representative of the departments of Culture. G.A. and Welfare not below the rank of Deputy Secretary and if their performance during the period of ad hoc service had been satisfactory then they may be regularly appointed against the posts which are ear-marked for the categories to which they belong according to the model roster and against the direct recruitment quota in accordance with the Resolution dated 22.08.89. As regards those who cannot be adjusted in the above manner they may be allowed to continue till the posts are filled up in the prescribed manner and they are replaced by regularly selected incumbents in accordance with the judgment of the Hon'ble Supreme Court in the case of State of Haryana and another vs. Piara Singh and others reported in AIR 1992 SC 2130. However, if any such vacancy is ear-marked for a reserved category to which the person concerned does not belong then his/her continuance shall be only in spells of 45 days so as not to violate the OMS Act. The applicant in O.A. 1925/94 which is officiating against a post of Junior Clerk-cum-typist and in whose case there is some confusion as to whether she belongs

to General or SEBC shall produce the cast certificate to determine her category. If she can be regularly appointed in accordance with the guidelines indicated above, orders of government in the G.A. Department shall be obtained for relaxation of Rule 14 of the -3OMS Rules. If no post ear-marked for her category is available then she may be allowed to compete in the next recruitment for Junior Clerks conducted by Collector, Khurda by relaxing her upper age limit if necessary. 5. The exercise of evaluation of the performance on the basis of the CCRs/others service records be completed within three months from the date of receipt of a copy of the order and regular appointment in the case of those who can be adjusted as indicated be completed within one month thereafter. With the above directions the original applications are disposed of. No costs."

Learned counsel for the petitioner contended that the learned Tribunal, while considering the matter in present O.A. has not only gone contrary to the direction issued by it in the earlier O.A. has also gone beyond the prayer made by the applicant. Learned counsel for the petitioner contended that even assuming without admitting that one of the Conveners, was relative of one of the candidates, the committee proceeded with the selection and observed as under:-

"3(a) . Regularization to the post of Asst. Librarian

The following vacancies on the post of Asst. Librarian are available at present in the H.K.M. State Library.

1. Asst. Librarian

2. Anticipated vacancies 5 Nos. 8 Nos. after the promotion of 3 Nos. Asst. Librarians to the Librarians Class-III

As per the Govt. Resolution No.8341/SCdt.22.8.2000 50% of the vacancies i.e., four posts shall be filled up by way of direct recruitment. The roster points of the direct recruitment are as follows for the above four posts of Asst. Librarian.

Category

No. of Posts

Roster point No.

S.T.

1

12 S.T.

Unreserved

2

13 Unreserve

SEBC

1

14 SEBC

Unreserved (W)

15

Unreserved

Total 4

The Committee considered the following adhoc/ DLR cases in different categories as per their performances and roster points of reservation for appointments to the posts of Asst. Librarians. The performances of all the adhoc/DLR employees were evaluated by the Committee with reference to the reports and recommendations of the Librarian of H.K.M., State Library.

Sl. No.

Name

Category

1.

Smt. Salita Patra

General

2.

Smt.Kabitarani Mohanty

General

3.

Mt. Kanthamani Biswal

SEBC

4.

Smt. Manjurani Muduli

General

Since no S.T. candidate is available, it is recommended that Smt. Manurani Muduli will continue against ST quota on 44 days basis till the post is filled up on regular basis as per the judgment."

It is submitted that the petitioner has reasonable apprehension that the Convenor who was continuing as Establishment Officer and was to superannuate on 28.02.2001 was one of the members of the Selection Committee in which her own daughter-in-law, Smt. Sabita Singh was of the candidates and was selected.

That itself has vitiated the process of selection. In order to show favour to his daughter-in-law so that she gets a chance to be absorbed in the State Library, case of the petitioner has been ignored. He was the instrumentality in selecting his daughter-in-law and in pushing down the petitioner to a lower position, even though the petitioner was at SI. No.2 in the merit list.

We have heard learned counsel for the opposite parties. Taking into consideration fact situation of the case in its entirety, we are not disturbing the finding of the learned Tribunal, but learned Tribunal while considering the matter has travelled beyond the prayer, which has been claimed and also failed to take into consideration the direction issued by it in earlier O.A., i.e., O.A. No.305 of 1996, disposed of on 16th May, 2000.

In that view of the matter, the order of the learned Tribunal is required to be quashed and set aside and we so direct. The case of the petitioner will now be considered by the Committee in view of the order passed in earlier OA No. 305 of 1993.

We make it clear that the entire exercise shall be completed within a period of twelve weeks from receipt of this order.

With the aforesaid observation and direction, the writ petition stands disposed of."

10.4. Petitioner challenging the order passed by this Court in review petition on 11.04.2019, moved the Apex Court by filing SLP (Civil) Diary No.33554 of 2019. Hon'ble Apex Court vide order dtd.14.10.2019 disposed of the SLP under Annexure-16 with the following order :-

"Delay condoned.

We have heard Mr. Sourya Sundar Das, learned senior counsel appearing for the petitioner.

We are not inclined to interfere with the impugned order except reiterating the following direction of the High Court:

"The case of the petitioner will now be considered by the Committee in view of the order passed in earlier ??. NO.340 of 1994

We make it clear that the entire exercise shall be Completed within a period of twelve weeks from receipt of this order."

The special leave petition is accordingly disposed of. Pending applications, if any, shall also stand disposed of."

10.5. It is found that prior to passing of the order in Review on 11.04.2019 and further order passed by the Hon'ble Apex Court on 14.10.2019, Petitioner vide order dtd.20.02.2019 under Annexure-17, was regularized w.e.f. 01.05.2008 against a vacant UR post of Asst. Librarian notionally. However, in terms of the order passed in Review and further order passed by the Apex Court under Annexure-16, the Committee in its proceeding dtd. 30.03.2021 under

Annexure-20, while upholding the order of regularization of Opposite Party No.4 w.e.f. 07.09.2001 so made vide order dtd.24.05.2004 under Annexure-9, recommended to regularize the Petitioner against a UR vacancy w.e.f. 01.05.2008. Basing on such decision of the Committee, Petitioner vide order dtd.18.09.2021 under Annexure-18 was regularized w.e.f. 01.05.2008 against a vacant UR post notionally.

10.6. Considering the nature of order passed by this Court on 11.04.2019 and further order passed by the Hon'ble Apex Court on 14.10.2019 under Annexure-16 and the fact that the S.T. vacancy was never filled up during the period from 2004 to 01.05.2008, it is the view of this Court that Petitioner should have been regularized w.e.f. 24.05.2004 against the vacant ST post and w.e.f. 01.05.2008 against the UR vacancy and thereby enabling the Petitioner to get the benefit of pension under OCS (Pension) Rules, 1992.

10.7. In view of the aforesaid analysis, this Court while disposing both the Writ Petitions directs Opposite Party Nos.1 to 3 to regularize the services of the Petitioner notionally w.e.f. 24.05.2004 against the ST vacancy and w.e.f. 01.05.2008 against the UR vacancy notionally with financial benefit accruing from the date of passing of the order dtd.21.02.2019 under Annexure-17. This Court directs Opposite Party Nos.1 to 3 to pass a fresh order accordingly and release all consequential service and financial benefits including pension and other pensionary benefits as due and admissible in favour of the Petitioner. This Court directs Opposite Party No.1 to 3 to complete the entire exercise within a period of three (3) months from the date of receipt of this order.

11. Accordingly, both the Writ Petitions stand disposed of.