
(2014) 06 OHC CK 0023
In the Orissa High Court
Case No : O.J.C. No. 16692 of 1997

Yamini Kanta Swain

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 23-06-2014

Acts Referred:

Orissa Co-operative Societies Act, 1962 — Section 33-A

Citation : (2014) 2 OLR 321

Hon'ble Judges : B.R. Sarangi, J

Bench : Single Bench

Final Decision : Disposed Off

Judgement

Dr. B.R. Sarangi, J.—Heard Mr. N.K. Barik, learned counsel for the petitioner and Mr. S. Das, learned Addl. Standing Counsel for the State.

2. The petitioner files this application seeking for a direction to consider his case for regularization in the post of Zonal Manager with retrospective effect i.e. w.e.f. 05.08.1996 and for grant of all the consequential benefits as admissible, to him.

3. Mr. Barik, learned counsel for the petitioner states that the petitioner was engaged as D.L.R. under opposite party No. 3 in the year 1989 and was discharging his duty as a Junior Procurement Assistant with a consolidated wage applicable to DLR employees. Thereafter, he continued as such and finally he was allowed to remain in-charge of Zonal Manager on 04.02.1994 and he discharged his duty in the said post and was paid consolidated wage of Rs. 1500/- per month. Since his service was not regularized by the authority, he has approached this Court by filing this writ application.

4. Mr. S. Das, learned Addl. Standing Counsel appearing for the State states that the petitioner has never been engaged as Zonal Manager rather he has been engaged as DLR with consolidated salary. Referring to paragraphs-5 and 6 of the counter affidavit he specifically states that the petitioner cannot be absorbed as Zonal Manager though he had discharged his duty as in-charge of Zonal Manager

of Chilika Poultry (P) Ltd. Berhampur to develop its business activities and apart from the same it is stated that the creation of post in different categories, their designation, qualification, remuneration, allowances and other conditions of service are to be framed by the authority in consonance with Section 33-A of the Orissa Cooperative Societies Act, 1962. As such, the claim of the petitioner that he was working as Zonal Manager, is absolutely a misconceived statement, and therefore, he is not entitled to get relief sought for in the writ petition.

5. The opposite party No. 3 has also filed counter affidavit in consonance with the counter affidavit filed by the State and refused to grant the benefits admissible to the petitioner by regularizing his service as Zonal Manager. That apart, it is brought to the notice of the Court that the petitioner had also approached the Industrial forum ventilating his grievances. As such, he is not entitled to get the benefit.

6. Considering the contentions raised by the learned counsel for the parties and after going through the records, it appears that vide order dated 04.12.1997 this Court passed an interim order that if any appointment for the post of Zonal Manager has been made the same shall be subject to the result of the writ application and as such, the post of Zonal Manager being a regular post, the petitioner being a DLR employee, he has to get the employment by following due procedure of selection as per the rules and thereafter vide order dated 08.03.1999 this Court directed that if the petitioner is actually working as on date, his current salary as admissible should not be withheld and the same may be paid forthwith. In order dated 23.06.2000 this Court granted liberty to the petitioner to approach the Board of Directors bringing to its notice the alleged noncompliance of the orders passed by the Board of Directors by the Managing Director. When this fact was brought to the notice of the authority, it is stated that the petitioner has not been allowed to discharge his duty as DLR. By the time the authority did not allow the petitioner to discharge his duty, he has already completed more than 11 years of service as DLR under the Organization. Therefore, the authority could not have dismissed the petitioner from the services without assigning any reason.

7. In view of the aforesaid position, the writ application is disposed of directing the petitioner to file a representation indicating his tenure of service as a DLR. If such representation is filed, the authority will take into consideration the law laid down by the apex Court in Secretary, State of Karnataka and Others Vs. Umadevi and Others, and reconsider the case of the petitioner and if any vacancy is available, he may be adjusted to work as DLR and subsequently, if any, regular vacancy will arise, he may be absorbed by following due procedure of law.

8. Issue urgent certified copy as per rules.