

Narayan Gope Vs. Orissa Forest Development Corporation Ltd. and Two ors.

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Court : Orissa

Decided On : Sep-27-2007

Reported in : 2007(II)OLR764

Judge : B.P. Das and; A.K. Samantaray, JJ.

Appellant : Narayan Gope

Respondent : Orissa Forest Development Corporation Ltd. and Two ors.

Disposition : Petition dismissed

Judgement :

ORDER

1. Heard learned Counsel for the petitioner as well as the learned Counsel for the opposite parties-Corporation.
2. The petitioner, who is working as a Crane Operator in the Forest Development Corporation Ltd., has filed this writ petition with a prayer to regularize his services from 15.06.1983.
3. As the fact goes, according to the petitioner, the OFDC (O.P. No. 1) in the year 1980 executed an agreement with the employees' Union under the provisions of the Orissa Forest Corporation Ltd. Daily Rated/ Consolidated Rated Workers Service Regulations Rules, 1980, wherein it was agreed that O.P. No. 1 will introduce a rule and the same shall form part of the agreement. Accordingly, the

rule was framed and accepted by the parties. In terms of the agreement, the petitioner has been regularized on and from 6.6.1989 vide Annexure-3. According to learned Counsel for the petitioner, the petitioner should have been regularized from 15.06.1983 instead of 06.06.1989 as per Annexure-1, which is the Orissa Forest Corporation Ltd. Daily Rate/Consolidated Rate Workers Service Regulation Rules, 1989. Learned Counsel for the petitioner refers to Clause 3 of the said Rules which provides as follows:

The daily rated/consolidate rated workers working in jobs of permanent or continuous nature in any establishment, unit or branch of the Corporation on completion of two years of continuous service shall be absorbed in posts in regular establishment on the basis of the recommendation of the Committee constituted under Rule 3(b).

4. According to the petitioner, he is entitled to be regularized from 15.06.1983 as by then he had completed two years of service.

5. A counter affidavit has been filed by the O.P. No. 1-Corporation. The appointment of the petitioner on 15.06.1981 is not disputed in the counter affidavit. But a stand is taken in paragraph 11 of the counter affidavit that generally regularization is being made against vacant posts. The Selection Committee selected 411 Field Assistants and 205 Class-IV employees. The Board created only 400 posts against which 386 Mates and 14 Class-IV employees were made regular. Though the petitioner was selected by the Selection Committee for regularization, due to non-creation of the post of Crane Operator by the Board, his regularization could not be made.

6. The learned Counsel for the O.Ps.-Corporation submits that at the present scenario the Corporation is downsizing the manpower for which large numbers of employees have been retrenched and the Corporation have resorted to voluntary retirement scheme. In view of the above position, learned Counsel for the O.Ps.-Corporation submits that now it is not possible nor was it possible in 1989 to absorb the petitioner retrospectively with effect from 15.06.1983.

7. This being the position, as the vacancy was not available then, we do not find any wrong or illegality in the action of the opposite parties in not regularizing the services of the petitioner from 6.6.1989.

8. The writ petition is accordingly dismissed.

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