

W.P.(C) SOUMOTU PIL No.1273 of 2014

37. 03.03.2021
1. Heard Mr. Gautam Mishra, learned Amicus Curiae for the Petitioner and Mr. M. S. Sahoo, learned Additional Government Advocate for Opposite Party - State.
 2. There are two issues that have been highlighted by the learned Amicus Curiae in the present PIL. One pertains to the requests made by the High Court for creation of posts of secretarial and ministerial staff. The turning down by the Government of Odisha of such requests or the reluctance displayed in correspondence to accept such requests to the full extent has led to the Court taking the issue on the judicial side in the present PIL.
 3. The other issue concerns the appointment in the subordinate courts against Group-C and D posts by applying the Odisha Group-C and Group-D Posts (Contractual Appointment) Rules, 2013.
 4. As far as first issue is concerned, it is agreed by Mr. Sahoo, learned Additional Government Advocate that in principle any such request made by the High Court should be accepted by the State Government. However, where any further examination is felt warranted, some kind of a mechanism which would facilitate a dialogue between the High Court and the Government, should be

put in place to examine such request by the High Court before arriving at a final decision thereon.

5. The Court accordingly directs that whenever the State Government desires to further examine a request by the High Court, the matter would be placed before a Committee comprising the Secretary (Finance), the Secretary (Home), the Law Secretary of the Government of Odisha and the Registrar General of this Court. The outcome of such meeting, where the issue would be discussed, will then be communicated to the Court.

6. It is clarified that where the State Government accepts as such the request of the High Court, there would be no need to activate such mechanism.

7. As far as second issue is concerned, it is seen that the requirement under the Rules that the person appointed has to complete 6 years of 'contractual' appointment before being regularised under Rule 10 (1) of the said Rules, has been the bone of contention.

8. Meanwhile, regular recruitment has taken place in Group-C and Group-D posts under the Rules made for such recruitment in the Subordinate Courts in 2008. Such appointments have, under an administrative order of this

Court, been made subject to the outcome of the present PIL.

9. As far as regular appointments in the Group 'C' and 'D' posts in the Subordinate Courts that have been made up to 2016, there would be no difficulty, since under Rule 10 (1) of the 2013 Rules, on completion of 6 years there is a deemed regularization effective from the date of the initial appointment. For the appointments made thereafter, it is desirable that the State Government should, keeping in view that such appointments on a regular basis have been made subject to the outcome of the present PIL, invoke Rule 11 of the 2013 Rules which provides for relaxation, so that the status quo shall remain undisturbed and those appointed shall continue on a regular basis. An affidavit indicating the stand of the Government of Odisha on this aspect be filed before the next date.

10. List on 6th April, 2021.

(Dr. S. Muralidhar)
Chief Justice

(B. P. Routray)
Judge