

The State Of Odisha vs Amit Kumar Mishra on 12 January, 2021

Bench: Sanjay Kishan Kaul, Dinesh Maheshwari, Hrishikesh Roy

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ITEM NO.6

Court 9 (Video Conferencing)

SECTION XI-A

S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C)

No(s). 13077/2020

(Arising out of impugned final judgment and order dated 03-02-2020 in WP(C) No. 1353/2020 passed by the High Court Of Orissa At Cuttack)

THE STATE OF ODISHA & ORS.

Petitioner(s)

VERSUS

AMIT KUMAR MISHRA & ORS.

Respondent(s)

Date : 12-01-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE DINESH MAHESHWARI
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s)

Mr. Shovan Mishra, AOR
Ms. Bipasa Tripathy, Adv.
Ms. Shubhangi Singh, Adv.

For Respondent(s)

Ms. Priya Hingorani, Sr. Adv.
Mr. Azim Hussein Laskar, Adv.
Mr. K.C. Sahu, Adv.
Mr. Sachin Das, Adv.
Mr. Chandra Bhushan Prasad, AOR

UPON hearing the counsel the Court made the following
O R D E R

We have heard learned counsel for parties. The plea of learned counsel for the petitioner is that in terms of Rule 6 of the Odisha Pharmacist Service (Methods of Recruitment & Conditions of Service) Rules, 2015, the mode of selection prescribed for Pharmacists is 18:47:48 IST Reason:

through a selection process and, therefore, Pharmacists employed on a contractual basis under different schemes cannot be regularized. On the other hand, learned counsel for the respondents has drawn our attention to Rule 4 of the very Rules which provides for such contractual Pharmacists to be absorbed once they have completed six years of satisfactory contractual service through a deeming provision. In fact the pharmacists who are yet to complete six years for contractual service are to be deemed to be contractual Government employees and would be regularized as and when they complete six years of satisfactory service as per the proviso. In view of the aforesaid there is little doubt that as per the statutory Rules framed by the State of Odisha themselves they have provided for a deeming provision for such contractual employed Pharmacists and Rule 5 talks about modalities for induction of the Pharmacists in the cadre while Rule 6 mentions the method of recruitment. Their induction in the cadre is to be based on a minimal educational qualification and other eligibility criteria as per Rule 10 and it is nobody's case that the respondent do not meet this requirement.

Learned counsel for the petitioner(s) states that apparently the Rules are not very happily worded and what was envisaged was that even the contractual Pharmacists would have to go through an open selection process in view of Rule 5(ii). If it was so, in our view, that the Rule should have been so framed as Rule 4 introduces a deeming fiction for regular employees who have completed six years of service.

In view of the aforesaid, we are not inclined to interfere with the impugned order.

The Special Leave Petition is dismissed.

Pending application stands disposed of.

(ASHA SUNDRIYAL)
ASTT. REGISTRAR - cum - PS

(ANITA RANI AHUJA)
ASSISTANT REGISTRAR