

IN THE HON'BLE HIGH COURT OF ORISSA, CUTTACK

WP.(C) NO. 1713/2008

Sri Duryodhan Mohapatra

.....**Petitioner**

Vrs

**Principal Secretary,
F & E. Department & Others.**

..... **Opp. Parties.**

AFFIDAVIT ON BEHALF OF THE OPPOSITE PARTY NO. 1

I, Sri Kapileswar Mallik aged 57 years S/o. Late Agadhu Mallik now working as Under Secretary to Govt. in Forest & Environment Department, Govt. Of Odisha, Odisha Secretariat, Bhubaneswar, Dist. Khurda; do hereby solemnly affirm and state as follows:

1. That I have gone through the writ petition and understood the contents made thereof. I am looking after this case on behalf of Opp.Party No.1 who have authorized to swear this affidavit on his behalf.
2. That Hon'ble High Court vide order dtd. 23.06.2014 have directed the learned Additional Government Advocate for the State to obtain instruction as to whether the circular under Annexure-8 dtd. 21.06.2007 is applicable to the present case or circular under Annexure-A/1 dtd. 8.4.94 is applicable.
3. That it is humbly submitted that the General Administration Department circular No. 16838/Gen. dated 21.06.2007 is a clarification with reference to the appointments made under the provisions of the OCS (Rehabilitation Assistance) Rules, 1990. These rules are applicable for families of Government servants and not to the state public sector undertakings like Odisha Forest Development Corporation. The petitioner has been given

Kapileswar Mallik

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appointment in Odisha Forest Development Corporation. Thus the case of petitioner is not governed by the provisions of the OCS (Rehabilitation Assistance) Rules, 1990 nor covered under the GA Department letter No. 16838 dated 21.6.2007.

4. That it is humbly submitted that the ban imposed by Forest & Environment Department Letter dtd 8.4.1994 is applicable to Odisha Forest Development Corporation and continues to be in force. The said letter imposed ban on not only the appointments under the Rehabilitations Assistance Scheme but also on appointment of any person as daily wage staff/ work charged staff in future in the context of surplus staff and financial difficulties of the corporation. The OFDC has also been directed in the said letter to phase out daily wage and adhoc staff. That, it is submitted that the corporation had to implement voluntary retirement and retrenchment of its staff from the year 2001 due to surplus manpower. As such, the instructions issued vide letter dated 8.4.1994 are applicable to the corporation.

5. That it is humbly submitted that the appointment under Rehabilitation Scheme presupposes that there is a vacancy required to be filled up by that organization. As there is a ban on the appointment of any person in Odisha Forest Development Corporation due to surplus staff sitting idle and also due to poor financial condition then the appointment of the petitioner under daily wage basis does not go against any circular or instruction of the Government.

Kapil Kumar Mishra

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6. That the facts stated above are true to the best of my knowledge and belief based on official records.

Identified by :

Kapil Kumar Mishra
Deponent

Asst.A.G.'s Office.

CERTIFICATE

Certified that due to non-availability of cartridge papers thick papers have been used.

CUTTACK,

DTD. .07.2014

ADDL.GOV'T.ADVOCATE