

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.4038 of 2008

Dhaneswar Naik

....

Petitioner

M/s. R.K. Bose and associates, Advocates

-versus-

***Superintending Engineer
(Electrical), Jeypore Electrical
Circle, SOUTHCO, Koraput and
others***

....

Opposite Parties

Mr. D. K. Naik, Advocate for Opposite Party No.2 and
M/s. S. K. Pradhan and associates, Advocates for Opposite
Parties 1, 3 and 4

**CORAM:
THE CHIEF JUSTICE
JUSTICE R. K. PATTANAİK**

**ORDER
06.07.2022**

Order No.

04. 1. This is the second round of litigation brought forth by the Petitioner claiming that since he was allowed to work against the sanctioned post of Draughtsman-A, despite being promoted to the post of Draughtsman-B, he should be paid the salary attached to the post of Draughtsman-A.
2. In the first round, an order was passed by this Court on 6th November, 2007 in OJC No.3482 of 1995 permitting the Petitioner to make a representation to the Opposite Parties with the above prayer and for the Opposite Parties to dispose it of in accordance with law.

3. Pursuant thereto, the Petitioner made a representation on 2nd December 2007, which came to be disposed of by the impugned office order dated 1st February, 2008 rejecting the Petitioner's request, as a result of which the present writ petition was filed.

4. In Paras A and B of the impugned office letter, it has been stated as under:

“A. The absence of a sanctioned post in a particular cadre does not ipso facto entitles you of promotion to higher grade i.e. Draughtsman-A w.e.f the date of your effective promotion to the grade of Draughtsman-B. The rationale given by you and the comparison made to the case of one Sri R.C. Pradhan is not worthy consideration in view of the fact that such promotion was given irregularly and prior to the circular issued on 16.07.84 after which a Uniform Policy had been followed for such promotions.

B. The comparison drawn by you to the creation of posts in different other divisions in the year, 1989 has not given any such irregular benefit to any employee but on the contrary as persons were eligible for such promotion to the grade of Draughtsman-A from Draughtsman-B, such posts were created.”

5. Learned counsel for the Petitioner takes exception to what has been stated in Para-B above by contending that in 1989, four additional posts of Draughtsman-A were created and, therefore, the Petitioner should have been paid the salary attached to the post of Draughtsman-A if not from 1986 at least from 1989.

6. The above submission overlooks the fact that the salary attached to the Draughtsman-A cannot be paid unless the Petitioner was regularly promoted to that post. While he may have been officiating in that post, he would not be entitled to the salary attached to that post of Draughtsman-A without regular promotion. It must be mentioned here that the Petitioner in his turn was promoted as Draughtsman-A in 2004 and got the salary of Draughtsman-A from that date onwards.

7. In the circumstances, the Court is unable to find any error in the impugned order, which calls for interference.

8. The writ petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda