

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 204 of 2019

Sandhyabati Parida

.....

Petitioner

Mr. P. Chuli, Advocate

Vs.

State of Odisha and Others

.....

Opposite Parties

Mr. S.N. Nayak, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

30.06.2022

Order No.

02.

This matter is taken up through hybrid mode.

2. Heard Mr. P. Chuli, learned Counsel appearing for the Petitioner and Mr. S.N. Nayak, learned Additional Standing Counsel for the State.

3. The Petitioner has filed this Writ Petition seeking to quash the order dated 03.10.2018 passed by the Odisha Administrative Tribunal, Cuttack Bench, Cuttack in dismissing the Original Application filed by the Petitioner bearing O.A. No. 3674 (C) of 2010, by holding that Opposite Party No. 5 is senior to the present Petitioner and entitled to get promotion for the post of Anganwadi Supervisor.

4. Mr. P. Chuli, learned Counsel for the Petitioner contended that the Petitioner being senior to Opposite Party No.5 and the reliance placed on the joining report does not bear any signature, therefore, the finding arrived at by the Tribunal cannot sustain in the eye of law and is liable to be quashed.

5. Mr. S.N. Nayak, learned Additional Standing Counsel appearing for the State, contended that since Opposite Party No.5 is senior to the Petitioner being placed Sl. No. 3, whereas Petitioner was placed at Sl. No.46 of the gradation list, the case of Opposite Party no.5 was considered for promotion. Therefore, no illegality or irregularity has been committed and the Tribunal is well justified in passing the order, which does not require interference by this Court.

6. Having heard learned Counsel for the parties and after going through the records, it appears that after due selection process, the CDPO, ICDS Project, Aul vide office order dated 27th June, 1999 issued appointment order in respect of 63 number of Anganwadi workers wherein the name of the Petitioner finds place at Sl. No. 46 and she was allotted Patrapur Anganwadi Centre and in that order, the selected persons were directed to join within 15 days, failing which, the offer will be treated as cancelled. According to the Petitioner, she submitted her joining report on 6.7.1999. The allegation of the Petitioner was that the Provisional Gradation List was prepared and published by the CDPO, Aul, but the same was not put to circulation, as a result of which, the Petitioner could not file objection to the Provisional Gradation List and even the Final Gradation List was not circulated among the Anganwadi workers. While the matter stood thus, the private Opposite Party No.5, Smt. Namita Rout, who had joined as Anganwadi Workers along with the Petitioner and junior in the age than the Petitioner was promoted to the post of Anganwadi Supervisor. Thereafter, the Petitioner enquired and could know that her date of joining has been manipulated and shown as 13.7.1999 by one Junior Clerk Sri

Lingaraj Mohapatra of the office of CPDO. Therefore, obtaining the information regarding such documents under RTI Act, she filed an FIR against Sri Lingaraj Mohapatra on dated 19.10.2010, for which a case was registered against the said Clerk vide Aul P.S. case No. 96/10 under Sections 294/506/507/34 IPC. Her stand is that, as in the appointment order dated 27th June 1999, the selected candidates were directed to join within 15 days or else, their appointment will be treated as cancelled, the Petitioner had submitted his joining report on 6.7.1999 and as the 15 days period was to expire on 11.7.1999, she could not have submitted her joining report on 13.7.1999, but it is a created document by the said Junior Clerk Lingaraj Mohapatra. Her further stand was that if her date in the joining report would not have been manipulated and treated as 6.7.1999 then she would have got promotion to the post of Supervisor instead of her Junior-Private Opposite Party No.5. She made a representation to the authority on 01.11.2010 but no step was taken, for which she approached the Tribunal.

7. The Tribunal issued notices and Opposite Parties filed their Counter affidavit controverting such contentions raised by the Petitioner. It was specifically stated in the Counter that pursuant to the appointment order dated 27.06.1999, the Petitioner failed to submit her joining report within 15 days, but she submitted her joining report as Anganwadi Worker on 13.7.1999, for which, she was directed to file a show cause for not submitting the joining report within the prescribed time. She filed her show cause and after due consideration, her joining report was accepted and she was engaged as Anganwadi worker. To substantiate such contention the xerox copy of the peon book, show cause order,

joining report dated 13.7.1999, acquaintance roll and absentee statement report were placed on record as Annexure-A series to the Counter Affidavit filed before the Tribunal. It was also stated in the Counter Affidavit that though the Petitioner has put more than 11 years of service as Anganwadi worker, but her performance is not at all satisfactory. There are many allegations pending against her for illegalities and irregularities committed by her in doing her duties. She was absent for long time from her duties. During the visit of DSWO, Kendrapara to the Anganwadi centre, where the Petitioner was posted, she was found absent on 17.12.2009 and the DSWO, Kendrapara also found that the Anganwadi centre was totally defunct since long, for which, he had written letter to Opposite Party No.4 on 19.12.2009. The Provisional Gradation list of Anganwadi Worker was prepared by the District Authority. The DSWO Kendrapara vide letter dated 17.1.2008 had written letter to all the CDPO including the present Opposite Party No.4 for circulation of Provisional Gradation List and accordingly, it was circulated among the Anganwadi workers and in token of receive of the same, the Petitioner has submitted all relevant document for preparation and correction of the gradation list by putting her signature. After that the Petitioner had also filed a written application along with xerox copy of her M.A pass certificate for correction of her certificate, MA LL.B instead of BA LL.B. The stand taken by the Petitioner that Lingaraj Mohapatra, Junior Clerk has manipulated the date of birth in his joining report was denied in the Counter Affidavit.

8. The Tribunal after due adjudication came to a finding that the stand taken by the Petitioner has been demolished by the

Opposite Parties in their counter by producing relevant documents. Therefore the pleading of the Petitioner that she had submitted her joining report on 06.07.1999 is a false plea. She had submitted her joining report only on 13.07.1999 and the authorities were kind enough to accept her joining report though, it was not submitted within 15 days from the date of issue of the appointment order dated 27.06.1999. The Tribunal also observed that in the appointment order also, the name of Opposite Party no.5 finds at Sl. No.3, whereas the name of the Petitioner finds at Sl. No. 46. Therefore, the Opposite Party no.5 is senior to the Petitioner and accordingly dismissed the Original Application.

9. In view of the above, this Court does not find any error apparent on the face of the impugned order passed by the Tribunal calling for an interference by this Court. Accordingly the Writ Petition merits no consideration and the same stands dismissed.

(DR. B.R. SARANGI)
JUDGE

Arun/Banita

(S.K. MISHRA)
JUDGE