

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 530 of 2022

Biswanath Pradhan

....

Petitioner

Mr. S.K. Nayak, Advocate

-Versus -

State of Odisha and others

....

Opp. Parties

Mr. J.P. Pattnaik, G.A.

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

21.01.2022

Order No.
01

This matter is taken up through video conferencing mode.

2. The petitioner has filed this writ petition seeking direction to the opposite party no.3 to conduct the recruitment to the post of Junior Engineer (Mechanical) on contractual basis under Engineering-in-Chief (Water Resources), Govt. of Odisha, vide advertisement dated 29.08.2019, following the Odisha Gazette notification of G.A. and P.G. Department dated 03.03.2020 under Annexure-4.

3. Mr. S.K. Nayak, learned counsel for the petitioner contended that the petitioner applied for the post of Junior Engineer (Mechanical) and participated in the selection process pursuant to the advertisement dated 29.08.2019, which provides that evaluation has to be made on the basis of marks secured in the written examination as 50%, and 50% on career assessment. But now the petitioner claims that it should be done on the basis of clause-6-A of the notification dated 03.03.2020, which provides that notwithstanding anything contained to the contrary in the

relevant recruitment rules, no career assessment shall be made in the process of selection in respect of Group-B and Group-C posts and services.

4. Mr. J.P. Pattnaik, learned Government Advocate contended that since the petitioner was aware of the conditions stipulated in the advertisement itself, pursuant to which he participated in the process of selection and having not come out successful, now the petitioner cannot turn round and say that the selection should be done on the basis of clause-6-A of the notification dated 03.03.2020. As such, the petitioner has not made any objection at any point of time; rather the petitioner willingly participated in the process of selection. Therefore, he seeks for dismissal of the writ petition.

5. Having heard learned counsel for the parties and after going through the records, this Court finds that pursuant to the advertisement, the petitioner applied for the same and participated in the process of selection, and he having not come out successful, now claims that the selection should be done on the basis of clause-6-A of the notification dated 03.03.2020. Since the petitioner has not made any objection at any point of time; rather he willingly participated in the process of selection, at this point of time, he cannot turn round and say that the selection should be done on the basis of clause-6-A of the notification dated 03.03.2020.

6. It is well settled law laid down by the apex Court in ***Madan Lal and others v. State of Jammu and Kashmir and others***, AIR 1995 SC 1088, that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him, he cannot turn round and

subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted.

7. In the case of ***Om Prakash Shukla v. Akhilesh Kumar Shukla***, AIR 1986 SC 1043, it has been clearly laid down by a Bench of three learned Judges of the apex Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in the examination, he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.

8. In the above view of the matter, this Court does not find any merit in the writ petition which is accordingly dismissed.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

(Dr. B.R. Sarangi)
Judge

Ashok