

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10054 of 2003

Santosh Kumar Panigrahi

....

Petitioner

Mr. Shaktidhar Das, Senior Advocate

-versus-

State of Orissa and others

....

Opposite Parties

Mr. M.K. Khuntia, Addl. Government Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

28.02.2022

Order No.

09. 1. The Petitioner, who applied for enrolment as “Candidate Peon” in the Judgeship of Phulbani, has filed this petition seeking mandamus to the Opposite Parties to appoint him as such.
2. Learning that posts of “Candidate Peon” were lying vacant, the Petitioner stated to have submitted an application. A selection was held and a list of successful candidates at the test held on 23rd July 2000 was published on the next day by the District Judge, Phulbani. There were fifteen names in the list and the Petitioner’s name figured at serial No.14. While the Petitioner was not appointed, the first seven candidates in the said list were appointed on the following day as “Candidate Peons”. On 21st November 2000, three Candidate Peons were appointed as Peons on temporary basis in the cadre of Class-IV. On 17th January 2002, two candidates at serial Nos.1 and 4 were appointed as Office Peons in the cadre of Class-IV with usual scale of pay. These two persons were not in fact in the list of selected Candidate Peons. Subsequently, on 30th May

2002, candidate at serial No.5 was appointed as Peon and on 21st July 2002, candidates at Serial Nos.4, 7 to 11 were also appointed. On 26th August 2002, Peons at serial No.13 and 15 were appointed as Peons. Subsequently, the person at serial No.15 was removed and he challenged his removal by filing W.P.(C) No.11301 of 2004, which was allowed by this Court by an order dated 13th August, 2014. Contending that person junior to him in the selection list has been appointed whereas he has been left out, the present petition has been filed by the Petitioner.

3. At the outset, it must be noted that the system of “Candidate Peon” has been now discontinued. In the counter affidavit, it is pointed out that the appointments of two other persons at serial Nos.13 and 15 were admittedly in violation of Rule 71 of the GR & CO (Civil) Volume-1. Likewise, the appointment of the person at Serial No.12 was also admitted by the Opposite Parties to be illegal.

4. Even though there is an admission that other appointments made were illegal, it by no means enables the present Petitioner to claim parity with such illegal appointments. In other words, there is no legal basis on which the Petitioner’s claim for regular appointment as Peon can be considered. The order passed by this Court on 13th August 2014 in the case of Sri Manoj Kumar Mishra at Serial No.15 stands on a different footing particularly since he was a physically handicapped candidate and the reason given in the notice issued to him prior to his removal was on wrong premises.

5. The facts as far as the present case is concerned are quite different. The Court is unable to find any grounds having made out for issuance of a mandamus as prayed for. The writ petition is accordingly dismissed.

6. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge



S.K. Jena/PA