

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos.29461 and 31176 of 2011

Ratna Bibhusan Rout and others ***Petitioners***
M/s. J. Sengupta and associates, Advocates
-versus-
State of Odisha and others ***Opposite Parties***
Mr. P.K. Muduli, AGA

CORAM:
THE CHIEF JUSTICE
DR. JUSTICE S. K. PANIGRAHI

ORDER
25.07.2022

Order No.

07.

1. Both the petitions are confined to Petitioner Nos.2,3,5, 7 and 8 only.
2. The challenge in the present petitions is to an order dated 18th February, 2011 passed by the Orissa Administrative Tribunal (OAT), Bhubaneswar allowing O.A. Nos.650 of 1999 and 727 of 2000 filed by the contesting private Opposite Parties, who had approached the Tribunal challenging the Gradation list circulated by the office of the Director of Agriculture and Food Production on 14th November, 1996 showing the present Petitioners senior to them.
3. The case of the private Opposite Parties was that the present Petitioners had been appointed as Junior Engineers (JEs) in the Soil Conservation Office on temporary *ad hoc* basis whereas the private Opposite Parties were appointed on regular basis and, therefore, the

present Petitioners could not have been shown senior to them in the gradation list.

4. The impugned order of the OAT has proceeded on the basis that the present Petitioners not being regularly appointed as JEs, in the absence of any regularization from the date of their initial appointment, they could not claim seniority over the regularly appointed private Opposite Parties.

5. Learned counsel for the present Petitioners was unable to show that the private Opposite Parties were also appointed only on temporary *ad hoc* basis as the present Petitioners. On the contrary, the impugned order reflects the submission at least at two places that the private Opposite Parties were regularly appointed. If that is the factual position then no fault can be found with the OAT for negating the plea of the present Petitioners and allowing the plea of the private Opposite Parties that in the gradation list, they should be shown senior to the present Petitioners.

6. Learned counsel for the Petitioners sought to refer to the stand of the State Government as reflected in para 5 of the impugned order, supporting the stand of the present Petitioners.

7. The need for the private Opposite Parties to approach the OAT was precisely because of the above stand of the Government in seeking to defend the gradation list issued by it. Merely being shown senior in a gradation list, would not convert the temporary appointments of the present Petitioners into regular appointments. Therefore, the claim of the present Petitioners only on the basis of the gradation list is not sustainable in law.

8. For the aforementioned reasons, the Court finds that no error having been committed by the OAT in allowing the applications filed by the private Opposite Parties.

9. The petitions are accordingly dismissed, but in the circumstances, with no order as to costs.

(Dr. S. Muralidhar)
Chief Justice

(Dr. S. K. Panigrahi)
Judge

M. Panda

