

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 2370 of 2013

Medisi Kameswar

.....

Petitioner

Ms. S.L. Patnaik, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

04.04.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. Heard Ms. S.L. Pattnaik, learned counsel for the petitioner and Mr. A.K. Mishra, learned Addl. Government Advocate.

3. Against the selection held in the year 2011 for the post of Forest Guard, the petitioner approached the tribunal by filing O.A. No. 4002 of 2012 to treat the select list valid till appointment order is issued to the petitioner. But the tribunal, vide order dated 07.12.2015, disposed of the original application with observation that since validity of the select list has already been expired, it is the prerogative of the concerned authorities to extend the period of validity of the select list. Being aggrieved by the said order, the petitioner has approached this Court by filing the present writ petition.

4. Ms. S.L. Pattnaik, learned counsel for the petitioner contended that when the petitioner had earlier approached the tribunal by filing O.A. No. 1454 of 2012, the select list was valid and, therefore, the case of the petitioner should have been considered by the tribunal. But the tribunal, instead of doing so, disposed of the said original application giving direction for consideration of the representation of the petitioner, but till date the same has not been considered by the authority.

Therefore, the petitioner filed subsequently O.A. No. 4002 of 2012, but the tribunal without considering the case of the petitioner in proper perspective, disposed of the said original application with observation noted hereinbefore.

5. Mr. A.K. Mishra, learned Addl. Government Advocate contended that the petitioner after facing recruitment test for the post of Forest Guard pursuant to the advertisement, was selected as per the select list dated 09.12.2011. As no appointment was offered, he approached the tribunal seeking direction to the opposite parties to issue appointment order as per the select list. But the same was not considered in view of the fact that validity of the select list was expired after one year in term of Rule-11 (2) of the Odisha Subordinate Forest Service (Method of Recruitment and Condition of Service of Forest Guards) Rules, 1998. Thereby, the tribunal is well justified in passing the order impugned dated 07.12.2012 in O.A. No. 4002 of 2012, which does not warrant interference of this Court.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner had applied for engagement as against the post of Forest Guard pursuant to the advertisement issued, and after facing recruitment test, was selected for the post of Forest Guard as per the select list dated 09.12.2011, but he was not issued with the appointment order. Since vacancies were available, appointment letter should have been issued in favour of the petitioner. But, as it appears, Rule-11 (2) of the Odisha Subordinate Forest Service (Method of Recruitment and Condition of Service of Forest Guards) Rules, 1998 prescribes that the select list prepared under sub-rule (1) shall remain valid for a period of one year from the date of its approval or till the next select list is drawn up, whichever is earlier. As such, validity of the select list dated 09.12.2012 expired on 08.12.2012. Therefore, the tribunal, though observed that it is the prerogative of the concerned authorities to extend the period of validity

of select list, but it did not feel inclined to grant the relief sought by the petitioner, nor directed the opposite parties to consider the representation filed by the petitioner, which was filed by the petitioner pursuant to the direction issued by the tribunal in the previous original application. As it appears from the counter affidavit filed by opposite party no.3, due to pendency of vigilance case and also the contempt case, the representation of the petitioner has not been disposed of. It is contended by learned counsel for the opposite parties that though the representation of the petitioner was disposed of, but the petitioner has not challenged the same in the original application, rather prayed for selfsame relief which he earlier prayed in O.A. No. 1454 of 2012.

7. In the above view of the matter, due to suppression of material fact, the writ petition filed by the petitioner cannot sustain in the eye of law. As such, this Court does not find any illegality or irregularity committed by the tribunal in passing the order impugned so as to cause interference with the same.

8. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

Ashok/Sukanta

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE