

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 548 of 2016

AFR

Panchanan Rana

....

Appellant

Mr. A.K. Mishra, Advocate

-versus-

***Collector-cum-CEO, Zilla Parishad,
Bargarh and others***

Respondents

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

Mr. B.B. Routray, Advocate

Mr. R.N. Patnaik, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH**

**ORDER
18.10.2022**

Order No.

Dr. S. Muralidhar, CJ.

05. 1. The present appeal is directed against a judgment dated 21st November 2016 passed by the learned Single Judge dismissing W.P.(C) No.6542 of 2008 filed by the present Appellant and upholding the order passed on 25th April 2008 by the Project Director, District Rural Development Agency, Bargarh (DRDA) (Respondent No.2) disengaging the Appellant from the post of Gram Rozgar Sevak (GRS).

2. The background facts are that pursuant an advertisement issued on 13th August, 2007 for filling up of the post of GRS in 248 Gram Panchayats (GP) of Bargarh District, the Appellant and Respondent No.4 were among the several who applied for the post. The

Appellant was selected and empanelled as GRS of the GP under the Bijepur Block. Thereafter, the Sarpanch, Sanbausen GP issued a letter on 14th November 2007 appointing the Appellant as GRS in Sanbausen GP.

3. As far as Respondent No.4 herein is concerned, being aggrieved by the non-selection for the post, he filed an application before Respondent No.2 on 19th November, 2007 for rechecking of the mark sheet submitted by the candidates including that of Respondent No.4. When no action was taken, he submitted an application before the Collector and District Magistrate, Bargarh on 26th February 2008 and followed it up with another representation on 3rd March, 2008.

4. It was pointed out by Respondent No.4 that he had scored 449 marks out of 900 in the Higher Secondary Examination of 2003, whereas the present Appellant had scored only 433 marks. Pursuant to the above representations, a notice was issued to the present Appellant on 31st March, 2008 asking him to explain why he should not be disengaged from the post of GRS. After his reply was examined on 25th April 2008, Respondent No.2 sent a letter to Sarpanch pointing out that as a result of Respondent No.4 re-appearing in compartmental examination in English paper in the +2 examination, after recalculation, he secured 449 marks which was the highest and, therefore, he was eligible to be appointed as GRS. As a result, the Appellant was disengaged by an order dated 8th May 2008, and Respondent No.4 was engaged in his place.

5. Before the learned Single Judge, the plea taken by the Appellant was that the application form submitted by Respondent No.4, in the education bio data in the column meant for “marks secured”, Respondent No.4 had mentioned the total marks obtained both in the HSC as well as +2 Arts and left the column indicating ‘mark secured’ both in the HSC and +2 Arts blank. On this basis, it was contended by the present Appellant that Respondent No.4 had submitted an incomplete application form. This plea was rejected by the learned Single Judge who observed that Respondent No.4 had in fact enclosed all his mark sheets and could not have been difficult to verify therefrom what the marks secured were as distinguished from the total marks. The mere omission to mention the mark secured in the relevant column, while enclosing the mark sheets, ought not to be a ground to reject the candidature of Respondent No.4, who in fact secured 449 marks whereas the Appellant had secured only 433 marks. Therefore, the order disengaging the Appellant was upheld.

6. Learned counsel appearing for the Appellant relied on the decision of the High Court of Delhi dated 17th July, 2002 in C.M. Writ Petition No.21129 of 2002 (*Ajeet Pratap Singh v. Union of India*). In that case, the Petitioner’s candidature for Civil Services (Preliminary) Examination was rejected as he had not indicated his educational qualification in the application form. This was an essential information and distinct from not filling up the column pertaining to “Marks Secured”, even while mentioning “Total Marks” and enclosing the mark sheets as has happened in the present case. Consequently, this Court is of the view that the

decision in *Ajeet Pratap Singh v. Union of India* (*supra*) is distinguishable on facts.

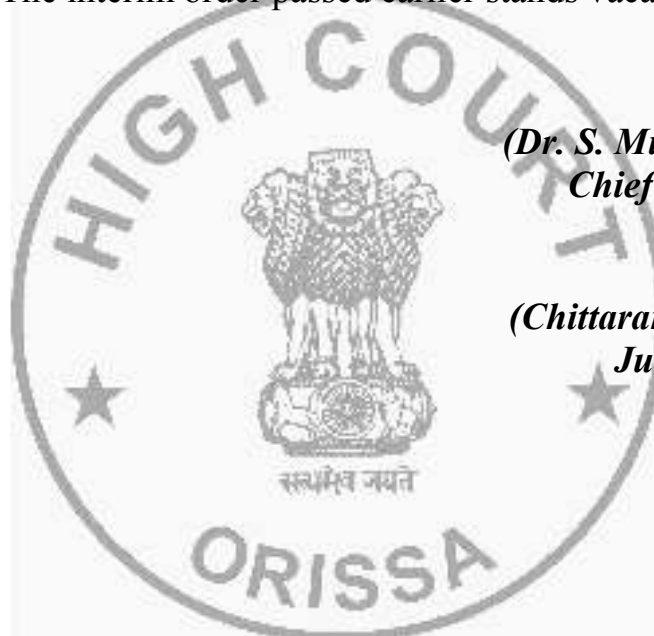
7. Reliance is next placed again on the decision dated 13th January 2010 of the Delhi High Court in Writ Petition (Civil) No.13451 of 2009 (*Dr. Vineet Relhan v. UPSC*). There, the candidature was rejected because the applicant failed to enclose the essential documents like certification of qualification and reservation with the application for the post. In the present case, there was no failure by Respondent No.4 to enclose any document. Consequently, this decision is also not of any assistance to the Appellant.

8. Reliance was next placed on the decision of the Delhi High Court dated 17th July, 2002 in W.P.(C) No.20916 of 2002 (*Jata Shankar Shukla v. UPSC*). There, the question posed was whether a candidate can change the information furnished in an application form at a subsequent stage. Here, Respondent No.4 has not attempted to change the information provided by him in the application form.

9. Lastly, reliance is placed on a decision dated 22nd September, 2008 of the Supreme Court in Civil Appeal No.5766 of 2008 (*T. Jayakumar v. A. Gopu*) where the Court noted that the earlier application form did not even have a signature of the candidate and the later one was submitted beyond the stipulated time. The facts of the present case are totally different and therefore, the said decision is also of no assistance to the Appellant.

10. The Court is of the view that the learned Single Judge was justified in observing that the mere non-mention of marks secured in the relevant column even while enclosing the complete mark sheets, was not a valid ground to reject the candidature of Respondent No.4, who admittedly secured more marks than the Appellant. Consequently, the disengagement of the Appellant, when the above facts came to light, was wholly justified.

11. There is no merit in the present writ appeal and it is dismissed as such. The interim order passed earlier stands vacated.



(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S.K. Jena/Secy.