

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 3300 of 2015

State of Orissa & Ors.

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Petitioners

Mr. A.K. Mishra, AGA

Vs.

Anadi Pradhan & Anr.

.....

Opposite parties

*Mr. T.K. Biswal, Advocate
(O.P.1)*

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

05.05.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Mishra, learned Additional Government Advocate for the State-petitioners.

3. Mr. T.K. Biswal, learned counsel appearing for opposite party no.1 states that he has no instructions in the matter as his client has taken away the brief from his office.

4. Since the matter is of the year 2015, this Court is not inclined to grant adjournment and proceeded to decide the matter with the materials available on record.

5. The State and its functionaries have filed this writ petition to quash the order dated 26.06.2014 passed in O.A. No.1413 of 2011, by which the Orissa Administrative Tribunal, Bhubaneswar, while allowing the O.A., has directed the petitioners to antedate the promotion of opposite party no.1 with that of his junior, opposite party no.2- Chinapa Jyostnamayee with effect from the date she got promotion and extend all service and financial benefits with effect from the said date.

6. Mr. A.K. Mishra, learned Additional Government

Advocate for the State-petitioners raised preliminary objection with regard to maintainability of the O.A. before the tribunal as the promotion was held in the year 2006 and opposite party no.1 filed O.A. in 2011 claiming stay operation of order dated 28.10.2006. Therefore, the O.A. is not maintainable before the tribunal, as it was filed beyond one year period as prescribed in the Administrative Tribunals Act, after the cause of action arose. Otherwise also the tribunal has committed error by extending such benefit to opposite party no.1 on the plea that his case was not considered as by 30.06.2006, his CCR was not available and for that reason he was found unsuitable. But in the subsequent DPC held on 08.06.2007, his case was not considered as the representation of S.T. category employees was in excess, which clearly shows that the promotion of opposite party no.1 was not considered merely on technical ground and not on merit. Therefore, the tribunal came to a conclusion that opposite party no.1 cannot be deprived of consideration of his promotion for non-availability of CCRs, which is not his fault. In the subsequent DPC held on 08.06.2007, when it was found that the representation of S.T. category employees was in excess, opposite party no.1 ought to have been given promotion by reverting the junior most person in the cadre instead of ignoring him, when he was admittedly senior to opposite party no.2. Thereby, the direction given by the tribunal to give antedate promotion to opposite party no.1 is absolutely misconceived one, which requires interference of this Court at this stage.

7. There is no dispute with regard to the fact that the petitioner belongs to S.T. category and, as such, his case could not be considered for promotion to the post of head

clerk on 30.06.2006, as his CCR was not available to the DPC by the concerned Deputy Director of Agriculture, Kandhamal Range. Not only that, when the next DPC was held on 08.06.2007, it was found that the representation of S.T. category employees in the cadre of Sr. Clerk was in excess of the quota, for which the case of opposite party no.1, who belongs to S.T. category, could not be considered for promotion. But fact remains, opposite party no.1 had filed the O.A., challenging the order dated 30.06.2006, in 2011, which is beyond the prescribed period of limitation. Accordingly, the relief sought could not have been granted by the tribunal in absence of any cogent reason to show why opposite party no.1 approached the tribunal at the belated stage.

8. In that view of the matter, this Court finds that the tribunal has committed gross error in entertaining the O.A. No.1413 of 2011 beyond the limitation period. In such view of the matter, the order dated 26.06.2014 passed by the Orissa Administrative Tribunal, Bhubaneswar in O.A. No.1413 of 2011 cannot sustain in the eye of law. Accordingly, the same is liable to be quashed and is hereby quashed.

9. Accordingly, the writ petition is allowed.

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(DR. B.R. SARANGI)
JUDGE

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(SAVITRI RATHO)
JUDGE