

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33305 of 2011

Manoranjan Pattanaik

....

Petitioner

Mr. Amrit Mishra, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. P.K. Muduli, AGA

**CORAM:
THE CHIEF JUSTICE
JUSTICE R.K.PATTANAIAK**

ORDER

28.03.2022

Order No.

03.

1. The present petition is directed against the order dated 15th November, 2011 passed by the Orissa Administrative Tribunal, Bhubaneswar (OAT) dismissing the Petitioner's O.A. No.796 of 2010 whereby he questioned the review DPC proceeding held on 15th April, 2010 and the consequential Office Order dated 22nd April, 2010 whereby his prayer that he should be granted promotion from the post of Forest Ranger to OFS-II on the date i.e. junior got so promoted, was rejected.

2. This is the second round of litigation on the issue brought forth by the Petitioner. In the first round, the Petitioner was able to make out a case that in view of the non-communication of the adverse entry in his Confidential Character Rolls (CCRs) for the year 1980-81, the DPC could not have taken into account such adverse CCRs while denying his promotion. Accepting this plea, the OAT had by order dated 11th September, 2009 in O.A. No.653 of 1996 directed that the review DPC should be held excluding the CCR for 1980-81 which contained the adverse remark.

3. Pursuant to the above order, the DPC met on 15th April, 2010 to consider the case of the Petitioner for promotion to the rank of ACF Class-II now OSF-II Group A (JB) but found the Petitioner not suitable for such promotion. This was communicated to the Petitioner by the Office Order dated 22nd April, 2010 which has been challenged in the present petition.

4. Learned counsel for the Petitioner states that in an application filed by him under the Right to Information Act, he obtained information on 23rd May, 2011 from the Office of the Principal Chief Conservator of Forests that “information pertaining to the year 1981-82, 1982-83 and 1984-85 is not available in this office.”

5. This however does not mean that the above statement pertains to availability of such CCRs since the question that was asked was “whether the adverse remarks in the CCR of Manoranjan Pattanaik between the years 1981-82 to 1984-85 was communicated to him as per rules”. It is likely that there were no adverse entries in the above years.

5. On the contrary, a perusal of the impugned order of the OAT reveals that the OAT called for the records and perused them as is evident from following sentences in paragraph-6 of the impugned order: “The respondents had submitted copies of the proceedings of the review DPC held on 15th April, 2010. We have perused the same. We find that the DPC after consideration of CCRs for the period from 1981-82 to 1984-85

found the applicant not suitable for promotion to the rank of ACF in OFS-II.”

6. There is nothing in the above statement that enables the Court to infer that the OAT did not examine the records excluding the CCR for 1980-81 or that CCRs for the other years were not available.

7. The OAT has come to the conclusion, and in view of the Court rightly, that if the review DPC met on 15th April, 2010 and found the Petitioner not suitable after considering all the CCRs, and after excluding the CCR for 1980-81, that assessment cannot be questioned by the OAT.

8. The settled legal position is that an employee has a right to be considered for promotion but there is no inherent right to promotion as such. In the present case, the Petitioner's case was indeed considered for promotion but he was not found suitable. There is no presumption that non- suitability was on account of any adverse entries in the CCRs for the years other than 1980-81. The suitability for promotion is based on an overall assessment and it is not possible for the Court to sit in appeal over such assessment.

9. The Court accordingly finds no merit in the present petition and it is dismissed as such.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge