

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5385 of 2021

Haraprasad Mishra

....

Petitioner

Mr. S.K. Mishra, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. B. Pr. Tripathy, A.G.A. for O.P. No.4

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

Order No.

Date of hearing: 01.11.2022

Date of order: 25.11.2022

06.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the petitioner as well as learned counsel for the opposite parties. Perused the record.

3. The present writ petition has been filed by the petitioner seeking for a direction to the opposite parties to engage him as Yoga Teacher as he was selected vide common merit list dated 02.03.2020 under Annexure-3 pursuant to the advertisement dated 04.01.2020 under Annexure-1.

4. It is submitted by learned counsel for the petitioner that an advertisement was published on 04.01.2020 by the C.D.M. and Public Health Officer, Bhadrak for Empanelment of LA. Technician, radiographer, ECG Technician, Ophthalmic Assistant, Part time Yoga Teacher under Nidan on daily wage basis. For the post of Yoga

Teacher, the petitioner being eligible submitted his candidature for the said post. It is further submitted by learned counsel for the petitioner that the petitioner having requisite qualification i.e. PG Diploma in Yoga & MA in Human Conscious and Yogic Science/MA in Yoga and Naturopathy/MA in Yogic Science/Certificate Course in Yoga. Further for appointment as the Yoga Teacher, the remuneration was fixed at Rs.500/- per session (90 minutes). It is also submitted that the petitioner has requisite qualification to be appointed as Yoga Teacher pursuant to the advertisement and certificates have been filed under Annexure-2 to the writ petition. Accordingly, the petitioner has submitted his application to be appointed as Yoga Teacher. After applications were received from desirous candidates, selection test was conducted and the merit list was prepared by the Chief District Medical and Public Health Officer, Bhadrak-Opposite party no.3 vide order dated 02.03.2020. On the said merit list, the name of the petitioner found place at Sl. No.19 and place of posting of the petitioner has been shown at Jagannath Prasad HWC (Health Wellness Centre).

5. Further, learned counsel for the petitioner submits that pursuant to the advertisement under Annexure-1, 41 candidates were asked to appear before the Opposite Party No.3 on or before 11.03.2020. However, it is further submitted by learned counsel for the petitioner that since the entire district of Bhadrak was under Covid-19 pandemic situation, the candidates were facing difficulties in getting communication facility to appear before the Public offices. He further contended that the petitioner had also appeared before the concerned authority and the concerned authority citing Covid-19 pandemic situation, intimated that he shall intimate the next date of appearance later on. With this assurance, the petitioner returned from

office of the Opposite Party No.3. However, later, the petitioner learnt that the candidates have been appointed without intimating anything to the petitioner although the petitioner was selected and the name of the petitioner was in the merit list. Being aggrieved by such action of the authority, the petitioner ventilated his grievance by appearing before the Opposite Party No.3 on 16.10.2020 but no action was taken on such complaint of the petitioner. Thereafter, the present writ petition has been filed seeking direction to the Opposite Party No.3.

6. Learned counsel for the State, on the other hand, submits that pursuant to the advertisement, the entire selection procedure was held. He further submits that the record of opposite party finds a mention as absent in the attendance sheet in respect of the petitioner as Sl. No.19. Learned counsel for the State emphatically submits that since the petitioner had not appeared before the authority on the relevant day, even though he was selected, his case cannot be considered for appointment. Therefore, it is submitted by learned counsel for the State that the authorities have not committed any mistake. Hence, the writ petition is liable to be dismissed.

7. At this Juncture, learned counsel for the petitioner submits that some of the posts of Yoga Teacher are still lying vacant and further since the petitioner was found suitable and having requisite qualifications and his name was also on merit list, the petitioner's case may be considered against the vacant seats of Yoga teacher.

8. In reply to the submissions advanced by learned counsel for the petitioner, learned counsel for the State submits that the petitioner was selected pursuant to the advertisement and his name finds place in the final list, further he could not be appointed due to failure on the

part of the petitioner to appear before the authorities on the date fixed.

9. Considering the rival submissions advanced by the counsels for the respective parties, the limited nature of grievance involved in the present writ petition and keeping in view the case of the petitioner, this Court is of the considered view that the ends of justice would be best served by directing the Chief District Medical and Public Health Officer, Bhadrak-Opposite party no.3 to consider the case of the petitioner for appointment as Yoga Teacher subject to petitioner fulfilling the terms and conditions under Annexure-1 in the event the posts of Yoga Teacher are still lying vacant. Therefore, the petitioner is directed to appear before the Opposite Party No.3 along with certified copy of this order. In the event, the petitioner appears before the Opposite Party No.3, the said Opposite Party No.3 shall do well to dispose of the same and appoint the petitioner for the post of Yoga Teacher pursuant to the advertisement under Annexure-1 and such appointment shall be subject to petitioner fulfilling the terms and conditions as laid down under Annexure-1.

10. The entire exercise be carried on within a period of two months from the date of production of certified copy of this order.

11. With the aforesaid observation/direction, the writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

(**A.K. Mohapatra**)
Judge