

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16292 of 2015

State of Odisha & Anr.

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Petitioner

Mr. S. Rath, ASC

Vs.

Rojalin Pradhan & Anr.

.....

Opposite Parties

*Ms. Deepali Mohapatra,
Advocate*

CORAM:

DR. JUSTICE B.R. SARANGI

Mr. JUSTICE S. K. MISHRA

ORDER

28.06.2022

Order No.

13.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Rath, learned Additional Standing Counsel for the State-Petitioners and Ms. D. Mohapatra, learned Counsel for Opposite Party No.1.

3. The State and its functionary have filed this Writ Petition seeking to quash the order dated 03.09.2014 passed in O.A. No.2720(C) of 2012 as at Annexure-1, by which the Odisha Administrative Tribunal, Cuttack Bench, Cuttack, while allowing the O.A., has directed Petitioner No.2 to revise the merit list by including Opposite Party No.1 and appoint her as a Junior Clerk pursuant to Advertisement No.1238 dated 23.07.2010/2.3.11 by treating her as an SEBC candidate.

4. Mr. S. Rath, learned Additional Standing Counsel appearing for the State-Petitioners contended that the Tribunal has committed gross error apparent on the face of the records by issuing such direction, in view of the fact that Opposite Party No.1 has secured 211 marks, which is less

than the marks secured by last SEBC candidate. More so, Opposite Party No.1 claims the benefit by producing SEBC Certificate of the year 2002 before the Selection Committee in the year 2011, which is not legally tenable, because the SEBC Certificate is linked to the income of the family and usually remains valid for one year with the logic that the family income changes in every financial year. It is further contended that the total sanctioned posts for SEBC candidates as per the Advertisement was 31 and the last person selected among 31 has secured 248 marks, which is more than the marks secured by Opposite Party No.1. Therefore, question of giving appointment to Opposite Party No.1 does not arise at all. Thereby, the Order dated 03.09.2014 passed by the Tribunal in O.A. No.2720(C) of 2012 cannot sustain in the eye of law and the same should be quashed.

5. Ms. D. Mohapatra, learned Counsel for Opposite Party No.1 vehemently contended that it was never the case of the Petitioners before the Tribunal that Opposite Party No.1 secured less mark than the last candidate of the SEBC category by securing 248 marks. More so, the Petitioners have made out a new case for not giving the benefit to Opposite Party No.1. Consequentially, the prayer made in the Writ Petition cannot sustain in the eye of law and therefore, the Writ Petition should be dismissed.

6. Having heard learned counsel for the parties and after going through the records, it appears that pursuant to advertisement issued, Opposite Party No.1 applied for the post of Junior Clerk in the District Office Khurda. Again, in

response to another advertisement dated 02.03.2011, she submitted her application. Accordingly, she appeared in the written test on 12.06.2011 and came out successful in the written test and her name appeared in the list of successful candidates of SEBC category at Sl. No.39. As per advertisement, though 61 posts were available, more than 70 candidates were given appointment, but Opposite Party No.1 was not appointed. Therefore, she approached the Collector, Khurda, vide letter dated 19.04.2012 and the Collector, Khurda, intimated her vide letter dated 03.07.2012 that the lowest mark in the merit list is 145 and the highest mark is 329 and as she has secured 211 out of 400 marks in the written test and computer skill test, in the U.R. Category, she was not selected. The claim of Opposite Party No.1 is that she belonged to SEBC category and as she has secured 211 marks, she is eligible for appointment. But the last Candidate of the list of SEBC category has secured 248 marks, which is higher than mark secured by her and further, she had filed SEBC Certificate of the year 2002 before the Selection Committee in the year 2011. Since she was not given appointment, she approached the Tribunal by filing O.A. No.2720 (C) of 2012. The Tribunal, after due adjudication, vide order dated 03.09.2014, passed the order directing to revise the merit list by including Opposite Party No.1 and appoint her as Junior Clerk pursuant to Advertisement dated 23.07.2010/ 02.03.2011 and issue appointment order treating her as SEBC Candidate within a period of four months from the date of receipt of the order.

7. But fact remains, when the merit list was published for

SEBC Category, it appears that the last candidate of SEBC category has secured 248 marks and Opposite Party No.1 has secured 211 marks, which is less than the marks secured by last SEBC candidate. As per the Advertisement, the total sanction posts for SEBC candidates was 31 and therefore, she was not given appointment. Therefore, the Tribunal has committed gross error by directing to recast the merit list. Further, Opposite Party No.1 produced the SEBC Certificate of the year 2002 before the Selection Committee in the year 2011. Thereby, production of the said Certificate in 2011 cannot be considered as it is linked to the income of the family and usually remains valid for one year since the family income changes in every financial year.

8. In that view of the matter, this Court is of the considered view that the Tribunal has committed gross error in passing the order dated 03.09.2014 in O.A. No.2720(C) of 2012 directing Petitioner No.2 to revise the merit list by including Opposite Party No.1 and appoint her as a Junior Clerk pursuant to advertisement No.1238 dated 23.07.2010/2.3.11 by treating her as an SEBC Candidate. Therefore, the order passed by the Tribunal is liable to be quashed and is hereby quashed.

9. The writ petition is allowed.

10. Issue urgent certified copy as per rules.

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(DR. B.R. SARANGI)
JUDGE

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(S. K. MISHRA)
JUDGE

