

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos. 18176 of 2014

State of Orissa & Ors.

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Petitioners

Mr. S.N. Nayak, ASC

Vs.

*Orissa Administrative
Tribunal, Cuttack Bench,
Cuttack & Anr.*

.....

Opposite parties

*Mr. H.K. Ratsingh, Advocate
(O.P.2)*

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

26.04.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. S.N. Nayak, learned Additional Standing Counsel for the State-petitioners.

3. The State-petitioners have filed this writ petition challenging the order dated 26.09.2013 passed in O.A. No.4380 (C) of 2011, by which the Orissa Administrative Tribunal, Cuttack Bench, Cuttack has allowed the O.A. directing the petitioners to issue appointment order in favour of opposite party no.2 against the post of Revenue Inspector meant for ST category candidate in order of merit amongst the respective category within a period of three months from the date of receipt of the order and to treat opposite party no.2 as the recruitee pursuant to the advertisement dated 08.02.2010 and to fix his seniority as per his position in the select list by taking into consideration the total marks secured by him in the written test made for the purpose.

4. Mr. S.N. Nayak, learned Additional Standing Counsel for the State-petitioners contended that the petitioners issued an advertisement of special drive for SC & ST candidates on

08.02.2010 for the post of Revenue Inspector, Amin and ARI. As per the said advertisement, six vacancies were for Scheduled Tribe candidates and five vacancies for Scheduled Caste candidates for the post of R.I. Opposite party no.2 belongs to S.T. category and he made his application offering his candidature for recruitment as Revenue Inspector. He successfully passed out in the physical test held on 22.09.2010 and also appeared in the written test on 07.08.2011 comprising of two papers, i.e. arithmetic and handwriting in Oriya. It is contended that opposite party no.2 had secured '0' mark in arithmetic, which is less than 20% marks. It is further contended that the tribunal, without considering the case in proper perspective, vide order dated 26.09.2013 directed the petitioners to issue appointment order in favour of opposite party no.2 against the post of R.I, which is arbitrary and contrary to the provisions of law.

5. None has entered appearance for opposite party no.2 at the time of call. On perusal of the records, it appears that admittedly opposite party no.2 had applied for the post of R.I. and he was qualified in the physical test and thereafter, appeared in the written test. But he secured '0' (zero) mark in arithmetic out of 100 marks. As such, as a matter of principle, the screening committee decided 30% as the qualifying to be secured in each paper at written test, which will be taken into consideration for preparation of merit list. In case of SC women and ST category, minimum 20% marks will be considered towards eligibility. Therefore, opposite party no.2 has not satisfied the requirement of eligibility criteria as prescribed by the screening committee. Thereby, the tribunal has committed gross error in passing the order

dated 26.09.2013 in O.A. No.4380 (C) of 2011, that there was no fixation of guideline for such recruitment, before the opposite party no.2 made application, and therefore he should be issued appointment order. More so, the job requirement for the purpose of R.I. is to secure minimum basic mark in arithmetic, as it involves measurement and calculation. Therefore, if opposite party no.2 has not secured minimum marks to qualify, the tribunal has come to an erroneous conclusion directing the petitioners to issue appointment order in favour of opposite party no.2. Therefore, this Court is of the considered view that the order dated 26.09.2013 passed in O.A. No.4380 (C) of 2011 cannot sustain in the eye of law. Accordingly, the same is liable to quash and is hereby quashed.

6. Issue urgent certified copy as per rules.

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(**DR. B.R. SARANGI**)
JUDGE

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(**SAVITRI RATHO**)
JUDGE