

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 15016 of 2012

Union of India & Others

.....

Petitioners

Mr. A. Pradhan , CGC

Vs.

Sarat Kumar Parida and Others

.....

Opposite parties

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

25.04.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. Heard Mr. A. Pradhan, learned counsel for the petitioners-Union of India.

3. The petitioners-Union of India have filed this writ petition seeking to quash the order dated 14.11.2011 passed in O.A. No.27 of 2010 vide Annexure-3, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack, by holding that even granting adequate opportunity the opposite parties have not been able to establish by producing any evidence that pursuant to the advertisement they had ever made any application to participate in the selection which is the basic requirement for establishing the right of the opposite parties in the process of selection, as claimed in the original application, directed that in case the opposite parties produce any evidence in support of filling application pursuant to the advertisement in question, the petitioners-Union of India may consider the case of such opposite parties in accordance with the rules. Against the said order, though the petitioners-Union of India preferred Review Application No.6 of 2012, but the same was rejected vide order dated 06.07.2012. Being aggrieved by both the

orders, the present writ petition has been filed by the petitioners-Union of India.

4. The factual matrix of the case in hand, is that, the opposite parties and some other persons had applied for enrolment of fresh faces as substitutes for utilizations against day to day causalities in pursuance of the invitation of applications from the children of the railway employees who had retired on superannuation or voluntarily after 01.01.1987 or were to retire from service by 31.12.1993. Pursuant to such advertisement dated 13.08.1990, some of the eligible candidates applied for and the petitioners conducted some test/screening but stopped to take further steps. The result of the test already conducted was also not declared. Being aggrieved, the opposite parties had earlier approached the tribunal by filing in O.A. No. 511 of 1994, which was disposed of on 04.01.1999 by the tribunal directing to the petitioners nos. 1 and 2 to order the Vigilance Organization to complete the enquiry and submit their report within a period of 90 days from the date of receipt of copy of the order. Further action with regard to the interview/test will have to be taken on the basis of findings of the Vigilance Organization in the enquiry into the alleged irregularities in the interview/test. Being aggrieved by such order, the said opposite parties 1 to 20 approached this Court by filing O.J.C. No. 6110 of 1999, which was dismissed on 05.07.2001. But, as the instant petitioners cancelled the selection vide order dated 22.01.1999, liberty was given by this Court to those persons to approach the tribunal again challenging the order of cancellation of such selection. Consequently, a fresh O.A. was filed before the Central Administrative Tribunal, Cuttack Bench, Cuttack which was registered as O.A. No. 520 of 2001 and was disposed of vide order dated 16.04.2004, holding that the scheme (under which

the recruitment, in question was going on) was not an unlawful one and that calling the scheme bad would be of no purpose because enrolment of substitute has taken place in other three divisions long before. It is also clear that enrolment under Khurda Division was withheld on certain allegations otherwise the same would have been completed at the same time as was done in other three divisions. Therefore, the present opposite parties have approached the tribunal by filing the O.A. No. 27 of 2010 claiming similar relief. The petitioners-Union of India filed their counter affidavit praying for dismissal of the original application on the ground of limitation so also on the ground that no document has been produced by the opposite parties that they had ever applied pursuant to the advertisement dated 13.08.1990. After considering the same, the tribunal passed order dated 14.11.2011 by observing that the opposite parties have not been able to establish by producing any piece of evidence that pursuant to the advertisement they had ever made any application to participate in the selection which is the basic requirement for establishing the right of the opposite parties to participate in the process of selection as claimed in the original application. Thereby, the tribunal, after considering the same, observed that the opposite parties have not been able to make out any case for any of the reliefs claimed in this original application. The tribunal further held that in the event the opposite parties produced any evidence in support of filing application pursuant to the advertisement in question, the petitioners-Union of India, who are the opposite parties in the tribunal, may consider the case of such opposite parties in accordance with rules/law.

5. In the above view of the matter, this Court is of the considered view that the tribunal has never directed for engagement of the

opposite parties, rather the tribunal was prima facie satisfied that no materials were available on record nor the same had been produced before the tribunal to establish that they had participated in the selection and, as such, the tribunal gave opportunity to the present opposite parties to produce the materials before the petitioners-Union of India so as to reconsider their case in accordance with rules/law in terms of the advertisement issued. Thereby, the tribunal has not committed any arrear apparent on the face of record so as to interfere with the same. As such, petitioners-Union of India have unnecessarily approached this Court by filing the present application instead of giving opportunity to the opposite parties to produce the relevant documents for verification with regard to their participation in the selection process pursuant to the advertisement dated 13.08.1990. Even though, the petitioners-Union of India filed R.A. No. 6 of 2012, but the same was dismissed, vide order dated 06.07.2012.

6. In the above view of the matter, this Court does not find an error committed by the tribunal in passing the orders impugned dated 14.11.2011 in O.A. No.27 of 2010, as well as dated 06.07.2012 in R.A. No. 6 of 2012, so as to cause interference with the same.

7. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

Ashok/Sukanta

(SAVITRI RATHO)
JUDGE