

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No. 7130 of 2013

Mayadhar Mallik

.... Petitioner

Mr. Kaliprasanna Mishra, Sr. Advocate

-versus-

State of Odisha & Others

.... Opposite Parties

Mr. P. K. Muduli, AGA

**CORAM:
THE CHIEF JUSTICE
DR. JUSTICE S. K. PANIGRAHI**

**ORDER
25.07.2022**

Order No.

02. 1. The challenge in the present petition is to an order dated 13th March, 2013 passed by the Orissa Administrative Tribunal (OAT) in O.A. No.433 of 2009 filed by Opposite Party No.4. While issuing notice in the present petition on 3rd of May, 2013, this Court stayed the impugned order of the OAT.
2. Background facts are that aforesaid application filed by the Opposite Party No.4 challenged the appointment of the present Petitioner as Health Visitor (TB) in the District Headquarters Hospital, Dhenkanal (DHH).
3. In response to the petition, the Deputy Director, Health Services in his reply before the OAT pointed out that apart from work experience in the T.B. wards for more than five years, the Petitioner herein also possessed the requisite qualification of having passed +2 in the Science stream. As far as the Opposite Party No.4/applicant is concerned, he did not possess the +2 Science qualification.

4. Before this Court, Opposite Party No.4 has not appeared. The State has also not filed a counter affidavit. Although Mr. Muduli, learned AGA, states that he has received instructions that even the Petitioner does not possess the necessary qualification, that is contrary to what was stated on affidavit before the OAT.

5. Mr. K.P. Mishra, learned Senior Counsel appearing for the petitioner states that Opposite Party No.4 has since been promoted and is therefore, perhaps no longer interested to pursue this litigation.

6. The fact remains that as far as the post of Health Visitor (TB) is concerned, the Opposite Party No.4 did not possess the requisite qualification. In such event, he ought not to have been permitted to question of appointment of the Petitioner before the OAT. On that short ground, the impugned order of the OAT is hereby set aside.

7. The petition is allowed in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(Dr.S. K. Panigrahi)
Judge

Lingaraj Behera