

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.11108 of 2022 & I.A. No.13001 of 2022

W.P.(C) No.9124 of 2022

**Odisha State Civil Supplies
Corp. Ltd.**

....

Petitioner

-versus-

**Odisha Human Rights
Commission & Ors.**

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

28.09.2022

Order No

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

2. Heard Mr. S.K. Mishra, learned counsel for the Petitioner in W.P.(C) No.11108 of 2022/ O.P. No. 2 in W.P.(C) No.9124 of 2022 and Mr. B.P. Das, learned counsel for the Petitioner in W.P.(C) No. 9124 of 2022/O.P. No. 2 in W.P.(C) No.11108 of 2022 along with Mr. R.N. Mishra, learned AGA appearing for the State in both the cases.

3. W.P.(C) No. 11108 of 2022 is filed by the Odisha State Civil Supplies Corporation Ltd. with the following prayer:-

“It is therefore, prayed that this Hon'ble Court may graciously be pleased to admit this Writ application, issue notice to the Opposite Parties, call for relevant records and after hearing the counsel for parties. the order dated 11.04.2022 passed by the Odisha Human Rights Commission, Bhubaneswar in Case No.589 of 2022 calling upon the petitioner to allow the Opposite Party No.2 to join the post of Manager (Audit) without instating for NOC from the private agency (previous Employer) be quashed:

And, may further be pleased to pass any other order/order(s), direction/direction(s) as would be deemed fit and proper:

And for this act of kindness, the petitioners shall as in duty bound shall ever pray. ”

4. Similarly W.P.(C) No.9124 of 2022 is filed by Mr. Nayan Kishore Pradhan inter alia with the following prayer:-

“Therefore, the Petitioner most humbly pray that your Lordships would be graciously pleased to issue a Rule Nisi calling upon the Opposite Parties to show cause as to why the Opposite parties more specifically Opposite Party No. 2 should not be directed to exempt the Petitioner for submission of the NOC in respect of the post of the Manager (Audit) in pursuance to Annexure-2 Series above, and allow the Petitioner to join in the said post as he being duly selected from the Opposite Party No. 2;

And if the Opp. Parties fail to show cause or sufficient cause, the rule be made absolute;

And issue any other appropriate writ/writs, order/orders, direction/directions as deem fit and proper in the fitness of the case;

And for this act of kindness the petitioners as in duty bound shall ever pray. ”

5. Mr. Mishra, learned counsel for the Corporation submitted that pursuant to the advertisement issued by the Corporation on 25.11.2021 under Annexure-1, O.P. No. 2 though was not having the eligibility to make his application for the post in question, but in view of the undertaking given by him on 11.03.2022 under Annexure-3 to the writ Petition, he was allowed to take part in the interview and being found suitable having placed at Sl. No. 1 in the merit list, was issued with the letter issued on 05.04.2022.

6. It is submitted that vide the said letter issued on 05.04.2022 under Annexure-5, O.P. No. 2 taking into account the undertaking

dtd.11.03.2022 was directed to submit the no objection certificate from his employer before issuance of the offer of appointment.

7. Mr. Mishra, learned counsel further submitted that instead of complying the undertaking so given under Annexure-3, O.P. No. 2 moved an application on 06.04.2022 under Annexure-6 series with a prayer to waive out the stipulation regarding submission of the no objection certificate from his employer and to provide him with the appointment.

8. It is submitted that after making such application under Annexure-6 and prior to submitting the NOC as undertaken under Annexure-3, O.P. No. 2 moved the Odisha Human Rights Commission in Case No.589 of 2022. Learned Commission in its order dtd.11.04.2022 when passed an order calling upon the Corporation to allow the Petitioner to join in the post of Manager (Audit) without insisting on the NOC, the matter was challenged by the Corporation in W.P.(C) No.11108 of 2022.

9. This Court while issuing notice of the matter vide order dtd.06.05.2022 passed an interim order to the effect that any decision taken pursuant to the order dtd.11.04.2022 shall be subject to the outcome of writ Petition.

10. Mr. Mishra, learned counsel for the Corporation further submitted that challenging the order passed by the learned Commission, the Corporation approached the Hon'ble Apex Court and Hon'ble Apex Court stayed the said order passed by the learned Human Rights Commission. But it is submitted that this Court vide order dtd.11.07.2022 passed an interim order to the effect that order under Annexure-4 shall not be varied without leave of this Court.

11. Mr. Mishra accordingly submitted that because of such order passed by this Court the Corporation is unable to proceed with the selection process and provide appointment to the eligible candidate basing on the selection held under Annexure-4. Accordingly, Mr. Mishra prayed for interference of this Court in the matter.

12. Mr. B.P. Das, learned counsel for the O.P. No. 2 on the other hand submitted that in view of the interim order passed by the Hon'ble Apex Court in staying the operation of the order dtd.11.04.2022 passed by the learned Commission and the pendency of the matter before this Court, learned Commission vide its order dtd.23.06.2022 closed the proceeding.

13. Mr. Das further submitted that in the meantime the Petitioner has also obtained the necessary no objection from his previous employer and in view of such development, the Corporation may be directed to take a fresh decision with regard to the issuance of the offer of appointment in favour of the Petitioner as against the post of Manager (Audit).

14. Having heard learned counsel for the Parties and taking into account the submissions made, this Court is of the opinion that since the proceeding initiated before the learned Commission in Case No. 589 of 2022 has been closed vide order dtd.23.06.2022, the Corporation is free to take a decision with regard to acceptance of the NOC obtained by the O.P. No. 2 from his employer in the meantime in accordance with law.

15. Therefore, this Court while disposing both the writ Petitions, permits O.P. No. 2 to move an application before the Corporation along with the NOC so obtained from his previous employer within

a period of ten (10) days from the date of receipt of this order. The Corporation in turn is directed to take a lawful decision on the same within a further period of two (2) weeks. But it is however observed that this Court has not expressed any opinion on the merits and contentions raised by either of the contesting Parties.

16. Both the writ Petitions are disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha

