

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13443 of 2022

Khirabdi Behera

....

Petitioner

Ms. Saswati Mohapatra, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Y.S.P. Babu, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER
20.06.2022

Order No.

01.

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

2. Heard learned counsel for the petitioner as well as learned counsel for the State. Perused the record.

3. The present writ petition has been filed by the petitioner with the following prayers:

“It is therefore prayed that this Hon’ble Court may graciously be pleased to

i) Quash the order dated 08.11.2021 under Annexure-4 as concurrently holding the same as bad, illegal and thereby direct the State Opposite Party to conduct Review DPC and promote the petitioner to OAS (Super Time Scale, Super Administrative grade, OAS (Special Secretary) within stipulated time as prescribed by this Hon’ble Court.

ii) Pass such other order/orders in favour of the petitioner for the ends of justice.”

4. Learned counsel for the petitioner draws attention of this Court

to order dated 8th November, 2021 under Annexure-4 and submits that pursuant to the order of this Court dated 24.09.2021 passed in W.P.(C) No.28608 of 2021, the Selection Board convened on 13.06.2018, 21.02.2019, 14.01.2020, 11.12.2020 and 29.06.2021 for considering grant of promotion to the Grade of OAS (Super time Scale), however, the Selection Board has not considered the case of the petitioner due to unavailability of adequate CCRs/PARs in his favour. Further, learned counsel for the petitioner draws attention of this Court to the guidelines dated 26.04.2006 for recording of Performance of Appraisal Report for Group-A Officers of the State Government replacing the current system of Confidential Character Rolls (CCRs).

5. Placing reliance on Sub-Clause-iv of Clause-5 of the said guidelines, learned counsel for the petitioner submits that CCRs/PARs are available on line and the same should be taken into consideration for granting promotion to deserving officers by the authority. Sub-Clauses-v & vi of Clause-5 of the said guidelines lay down the principle and mechanism for recording of PARs and CCRs.

6. Learned counsel for the State, on the other hand, submits that Selection Board on several occasions convened, since the CCRs/PARS pertaining to petitioner was not found adequate by the Selection Board for consideration of promotion of the petitioner. However, he further submits that the case of the petitioner has not been totally rejected by the Selection Board due to want of CCRs/PARs.

7. Considering the aforesaid submissions and upon careful perusal of the reports, this Court is of the considered view that an officer of the State Government is entitled for promotion subject to

suitability and performance. Moreover, while considering the promotion of an officer, the authorities are also under a legal obligation not to discriminate. However, upon recommendation for promotion of the petitioner vide order dated 08.07.2021, it appears that the matter of promotion was first placed on 18.12.2017 before Selection Board and due to want of adequate CCRs/PARs, the case of the petitioner was deferred. Further, Selection Board was convened on 13.06.2018, 21.02.2019, 14.01.2020, 11.12.2020 and 29.06.2021 and the case of the petitioner was not considered and that the same was deferred on the self-same ground. In this context, learned counsel for the petitioner by laying emphasis on the basic principle of service jurisprudence, which is applicable to the facts of the present case argued that the departmental authorities must record the CCRs/PARs of the employee in due course and no employee should be discriminated or victimized while giving promotion, who is working under the State Government.

8. Having heard learned counsels for the parties and upon consideration of the facts and circumstances of the case, this Court is of the considered view that the present petitioner has been grossly discriminated and has been adversely affected by the discriminatory conduct of the Selection Board.

9. In such view of the matter, this Court while declaring the conduct of the Selection Board for consideration of the case of the petitioner for promotion on different occasions and not giving the promotion, is grossly illegal and further directs the Selection Board to consider the case of promotion of the petitioner within a period of eight weeks from today and take a final decision in the matter. In the event it is found that petitioner is eligible to be promoted, he shall be

given promotion to the level he is found to be eligible by the Selection Board and financial benefits payable to him be paid forthwith. The entire exercise shall be carried out within a period of eight weeks from the date of production of certified copy of this order.

10. With the aforesaid observation/direction, the writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

Jagabandhu

