

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 11029 of 2018

Karunakar Barik

.....

Petitioner

Mr. S. Das, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr. B.P. Tripathy, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

05.04.2022

Order No.

15.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Das, learned counsel for the petitioner and Mr. B.P. Tripathy, learned Additional Government Advocate for the State opposite parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 07.03.2018 passed in O.A. No. 2113 of 2016 under Annexure-13 and to issue direction to opposite parties no. 1 and 2 to consider the case of the petitioner for promotion to the rank of OAS Group-A (Junior Branch), from the date his batch mates and juniors got promotion, and grant all consequential service and financial benefits within a stipulated time, keeping in view the recommendation of the opposite party no.2 dated 26.02.2016.

4. Mr. S. Das, learned counsel for the petitioner vehemently contended that the petitioner was selected under Orissa Settlement and Consolidation service cadre in the scale of pay of Rs.5500-9000/- by way of direct recruitment and accordingly joined as Assistant Settlement Officer in Sambalpur Wing vide office order dated 25.02.1999 of the Member, Board of Revenue, Orissa,

Cuttack. He joined the post on 06.03.1999. While continuing as such, he appeared in the Orissa Civil Service Examination, 2000 conducted by OPSC and got selected. Accordingly, he was appointed as Employment Officer, as per notification dated 14.02.2005 issued by the Government in Labour and Employment Department, and he relieved from his duty from Sambalpur Major Settlement with effect from 07.04.2005 to enable him to join as Employment Exchange Officer, Balasore with service continuity. While he was continuing as District Employment Officer of Nawarangpur district, he was selected for O.T.A.S and was posted as Sub-Treasury Officer of Titlagarh and was continuing since April, 2016. It is also contended that the petitioner had completed five years of service as ASO from 06.03.1999 to 07.04.2005 and has fulfilled all the conditions mentioned in the letter dated 19.06.2008. But his case for promotion to O.A.S. Class-II having not been considered, he filed a representation on 05.08.2008 (but the same does not find place either in the record of the tribunal or of this Court). Since the same was not attended to, the petitioner filed another representation on 29.12.2014, i.e. after six years. The representation was considered and recommendation was made by the Board of Revenue for consideration of his case for promotion to OAS Class-II. The same having not been considered, the petitioner approached the Tribunal by filing O.A. No. 2113 of 2016, but the prayer made in the said original application was rejected by the tribunal vide impugned order dated 07.03.2018.

5. Mr. B.P. Tripathy, learned Additional Government Advocate contended that the petitioner, having been selected under Orissa Settlement and Consolidation service cadre, joined as Assistant Settlement Officer and continued till 2005. Pursuant to

fresh selection conducted by the Orissa Public Service Commission, the petitioner was selected and appointed as Employment Officer and accordingly he joined the post by leaving his job as Assistant Settlement Officer. Subsequently, he cannot claim for grant of the benefit of promotion to the post of OAS Class-II, as his earlier lien had already been closed, since he chose to join the new service as Employment Officer without any objection by forfeiting his claim in the earlier appointment. Even though the petitioner completed 5 years of service in the year 2005 as ASO, that itself cannot enure to the benefit because of the fact that he joined in the new assignment pursuant to fresh process of selection conducted by the OPSC. He further contended that with regard to the so called representation filed by the petitioner dated 05.08.2008, nothing has been placed on record to that extent. But after six years of promotion of his batch mates, he made a representation in the year 2014. The same was forwarded and recommended by the Board of Revenue for consideration of his case for promotion to the post of OAS Class-II. Since the batch mates of the petitioner had already got promotion in the year 2008 and more than six years had passed, therefore, the representation of the petitioner was not acted upon. Challenging such action, the petitioner approached the tribunal and the tribunal by a well justified order rejected the claim of the petitioner. Thus, the impugned order need not be interfered with by this Court.

6. Having heard learned counsel for the parties and after going through the record, it is admitted by the petitioner that he was selected under Orissa Settlement and Consolidation Service cadre in the scale of pay of Rs.5500-9000/- by way of direct recruitment and accordingly joined as Assistant Settlement Officer in

Sambalpur Wing vide office order dated 25.02.1999 of the Member, Board of Revenue, Orissa, Cuttack, on 06.03.1999. While continuing as such, he appeared in the Orissa Civil Service Examination, 2000 conducted by OPSC and got selected. Accordingly, he was appointed as Employment Officer as per notification dated 14.02.2005 issued by the Government in Labour and Employment Department and he was relieved from his duty from Sambalpur Major Settlement with effect from 07.04.2005 to enable him to join as Employment Exchange Officer, Balasore with service continuity. While he was continuing as District Employment Officer of Nawarangpur district, he was selected for O.T.A.S and was posted as Sub-Treasury Officer of Titlagarh and was continuing since April, 2016. But the claim made by the petitioner is that he had got experience as Assistant Settlement Officer for the period from 06.03.1999 to 07.04.2005 and had completed five years of service as on 01.01.2005 and he had fulfilled all the conditions mentioned in the letter dated 19.06.2008 for promotion to the post of OAS Class-II, but his case was not considered. The Government, vide order dated 19.06.2008, had decided to recruit officer to the cadre of OAS Class-II by way of promotion from amongst the Gazetted Officers of the rank of Assistant Settlement Officer/Assistant Consolidation Officer/ BDO, which posts bear identical scale of pay of Rs.500-825/- with other allowances. Thereby, for non-consideration of the case of the petitioner, though he had worked from 06.03.1999 to 07.04.2008 and had completed 5 years of service as on 01.01.2005, he was grossly aggrieved and filed a representation on 05.08.2008. But the said document has not been placed on record nor was anything apparently done by the

authority concerned. But long after six years, on 29.12.2014, the petitioner made a representation for consideration of his case for promotion to the post of OAS Class-II and on the basis of such representation recommendation was made. Though recommendation was made by the Board of Revenue, but, by that time, the petitioner had already been selected pursuant to the fresh selection made by the OPSC in Orissa Civil Service Examination-2000 and joined as Employment Exchange Officer, Nawarangpur and thereafter joined as Sub-Treasury Officer of Titlagarh.

7. In that view of the matter, the claim of the petitioner is absolutely belated one and, more so, he having forgone his career as ASO, he is not entitled to the claim as laid before the tribunal as well as before this Court. Thereby, this Court does not find any infirmity in the impugned order passed by the Tribunal so as to warrant interference with the same. Thus, the writ petition merits no consideration and the same stands dismissed.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE