

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P (C) No.19137 of 2017

Labanyabati Kar

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Petitioner

*Mr.K.P.Mishra, Sr. Advocate along with
Mr. T.P. Tripathy, Advocate.*

Vs.

Union of India and others

.....

Opposite Parties

Mr.D.R.Mohapatra, CGC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

11.05.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr.K.P.Mishra, learned Senior Advocate along with Mr. T.P. Tripathy, learned counsel for the petitioner, and Mr. D.R.Mohapatra, learned Central Government Counsel.

3. In this writ petition, the petitioner has challenged the order dated 22.06.2017 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.260/00239 of 2012, wherein the tribunal observed that there has been deficiency in the decision of the authorities vis-à-vis the Notification for LDCE due to lack of transparency in the publication of Notification issued on 17.02.2021 and a period of five years has also been passed in the meantime, and as per the interim direction of this tribunal, result of the LDCE has also not been published and accordingly directed the opposite parties to cancel the process of recruitment and to re-notify the same after specifying the qualification correctly and initiate a fresh process of selection through LDCE.

4. Mr. K.P.Mishra, learned Senior Advocate for the petitioner vehemently contended that though the tribunal had come to a

finding that present opp. party No.5 having no locus standi being not possessed with the requisite qualification, cannot challenge the selection process, but entertained the original application and passed the order impugned, which cannot sustain in the eye of law. It is further contended that the question goes to the root of the matter that if a candidate is not eligible having no academic qualification, he cannot assail the process of selection, and as such, the entertain of such application filed by an ineligible person, by the tribunal, cannot sustain in the eye of law. Therefore, the tribunal has committed gross error apparent on the face of the record by entertaining such application and passing the order impugned directing for fresh recruitment cancelling the recruitment and to re-notify the same after specifying the qualifications correctly and initiate a fresh process of selection through LDCE, as the same is absolutely contrary to the provision of law.

5. Mr. D.R.Mohapatra, learned CGC appearing for the opposite parties contended that admittedly opposite party no.5 had no requisite qualification, and as such, he is totally in-eligible to participate in the process of selection. Therefore, at the instance of ineligible person, the original application also cannot sustain in the eye of law. Thereby, the direction of the tribunal at the instance of ineligible person, cannot also be taken into consideration and the same should be quashed.

6. Having heard learned counsel for the parties and after going through the records, it appears that original application having been filed by the in-eligible person, i.e., opp. party No.5 herein, which has been observed by the tribunal by holding that he has no locus standi to challenge, but entertained the application and passed the order impugned with the following observation and direction:-

“However, since we have noted that there has been

deficiency in the decision of the authorities vis-à-vis the Notification for LDCE due to lack of transparency in the publication of Notification issued on 17.02.2021 and a period of five years has also been passed in the meantime, and as per the interim direction of this Tribunal, result of the LDCE has also not been published, therefore, respondents are directed to cancel the process of recruitment and re-notify the same after specifying the qualification correctly and initiate a fresh process of selection through LDCE.”

7. Against the said order dated 22.06.2017 passed in O.A. No.260/00239 of 2012, the present petitioner, who was the opposite party No.5 in the Original Application, has approached this Court by filing the present writ petition. This Court passed an interim order on 31.10.2017 to the following effect:-

“As an interim measure, the impugned order dated 22.6.2017 passed by Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.260/00239 of 2012 shall remain stayed till next listing.”

8. In view of such position, it is to be considered that if the opp. party No.5 in the present writ petition, who was an applicant before the tribunal, has no requisite qualification for the post advertised, as such, he has no locus standi to make such application before the tribunal, there should not have any justification for the tribunal to entertain such application. More so, at the instance of an ineligible person, who has no locus standi, the direction given by the tribunal to cancel the process of recruitment and re-notify the same after specifying the qualification correctly and initiate a fresh process of selection through LDCE, cannot also be sustain in the eye of law.

9. In that view of the matter, since opp. party No.5 in the writ petition has no locus standi, and as such at his instance the O.A. filed before the tribunal is not maintainable and any observation made therein also cannot sustain in the eye of law. Accordingly, the order dated 22.06.2017 passed by the Central Administrative

Tribunal, Cuttack Bench, Cuttack in O.A. No.260/00239 of 2012 is hereby quashed and the writ petition is allowed.

10. Issue urgent certified copy of this order as per rules.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Arun/Bichi

