

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)No.17228 of 2022

Rashmita Dey

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

Order No

ORDER
27.07.2022

2. 1. This matter is taken up through Hybrid Mode.
2. Heard Mr. B.P. Das, learned counsel for the petitioner and Mr. A.P. Das, learned ASC appearing for the State-Opposite Parties.
3. It is submitted that pursuant to the advertisement issued by the CDMO, Balasore for contractual appointment of MPHWF on 27.06.2013, the petitioner made her application as a physically handicapped candidate. It is submitted that the petitioner along with her application submitted the physical handicapped certificate issued by the District Headquarters Hospital, Balasore on 07.04.2010. It is further submitted that in the said certificate, though the percentage of disability of the petitioner has been indicated as 50% and reassessment is to be made after five years, but the selection committee under the CMO, Balasore held the disability of the petitioner below 40% and it is also alleged that the petitioner has manipulated by indicating five (5) years in

place of two (2) years in the said certificate. Mr. Das, further submitted that the selected candidate-Opposite Party No.3 though initially produced her disability certificate by showing her disability to the extent of 30% as reflected under Annexure-3, but subsequently on another date i.e. 02.08.2013, her disability was indicated as 40% and she was selected and appointed to the said post as a physically handicapped candidate.

4. This Court for its own perusal directed the petitioner to produce the original physically handicap certificate issued by the District Headquarters Hospital, Balasore and the said certificate was produced before this Court by the learned counsel for the petitioner. On due perusal of the said certificate, this Court finds that the percentage of disability of the petitioner is assessed at 50% and the reassessment is to be made after five (5) years and not two (2) years.

5. Since this Court finds the percentage of disability of the petitioner at 50% and there is no manipulation in the said certificate at the instance of the petitioner, this Court finds the ground of rejection basing on which the candidature of the petitioner has been rejected by Opposite Party No.2 is not legally sustainable. This Court also finds that there is doubt with regard to percentage of disability of the selected candidate i.e. Opposite Party No.3.

6. In view of the above, this Court while allowing the writ petition directs Opposite Party No.2 to make a fresh selection by giving opportunity of hearing to the petitioner and Opposite Party No.3 and by asking them to produce

their documents in original. On such perusal of the documents by Opposite Party No.2, a fresh decision will be made and if Opposite Party No.2 ultimately finds that the petitioner is more suitable than Opposite party No.3, order of appointment shall be issued in favour of the petitioner. Since this order is passed in absence of Opposite Party No.3, Opposite Party No.2 is directed to give a reasonable opportunity of hearing to Opposite Party No.3 as well as to the petitioner.

7. The petitioner is directed to produce a copy of this order before Opposite Party No.2 within a period of ten days from today. Opposite party No.2 is directed to take a further decision by intimating the date of hearing to the petitioner as well as to Opposite party No.3 and complete the entire exercise within a period of two months from today.

8. With the aforesaid observation and direction, this writ petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Sangita