

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17613 of 2022

In the matter of an application under Section 19
of the Administrative Tribunals' Act, 1985.

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**Kali Prasad Dehury &
Others**

....

Petitioners

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner :M/s. G.R. Sethi, Advocate

For Opp. Parties :M/s. R.N. Mishra,
Addl. Govt. Advocate

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 27.09.2022 and Date of Judgment: 19.10.2022

Biraja Prasanna Satapathy, J.

1. Heard Mr. G.R. Sethi, learned counsel appearing for the petitioners and Mr. R.N. Mishra, learned Additional Government Advocate appearing for the State-Opp. Parties.
2. The present writ petition has been filed with the following prayer.

“To quash the order dated 29.6.2022 under Annexure-10

To direct the opposite parties to promote the petitioners to the rank of Odisha Revenue Service, Group-B(Junior Branch) with effect from 29.12.2021.

To direct the opposite parties to grant all financial and consequential service benefits flowing from the date of promotion.”

3. It is submitted that the petitioners herein while continuing as Revenue Field staff, taking into account their seniority in the final gradation list published under Annexure-4, their cases were recommended for consideration of their claim for promotion to the post of Orissa Revenue Service(ORS) Group-B by way of promotion for the recruitment year 2020 as notified under Annexure-3. It is submitted that Opp. Party No.3 vide its notification under Annexure-3 dated 18.11.2020 decided to recruit 188 officers to the cadre of Odisha Revenue Service ORS (Group-B) by way of “promotion” under Rule 4(b) of the Odisha Revenue Service (Recruitment) Rules, 2011, and ORS (Recruitment) Amendment Rules, 2017 and ORS (Recruitment) Amendment Rules, 2020 from amongst the Officers of

“Outstanding” merit of the Department having the following eligibility criteria.

(a) He/she is a graduate and has worked at least 5 years in one or more than one post taken together as Consolidator Grade-1, Kanungo, Revenue Supervisor, Revenue Inspector or Ministerial Officer under Board of Revenue/RDCs/Collectors and other Revenue offices as on 01.01.2020.

(b) Has passed Departmental Examination, if any.

(c) Not more than 53 years of age as on 01.01.2020.

4. It is submitted that as per Clause-5 of the said notification, the recommending authorities were requested to furnish immediate five years available CCRs/PARs to the preceding years to the recruitment year of the eligible officer as on 1st day of January of the recruitment year 2020 (i.e. from 2014-15 to 2018-19). It is also indicated in the said clause that the employees having minimum three years of CCRs among preceding years (from 2014-15 to 2018-19) may be recommended and in case of non-availability CCRs/PARs of any of the said period, back CCRs/PARs of the corresponding number of years may be furnished.

5. Learned counsel for the petitioner submitted that taking into account the vacancy indicated in the notification dated 18.11.2000 under Annexure-3 and

taking into account the position of the petitioners in the final Gradation List of Revenue Supervisor published under Annexure-4, the case of the petitioners were recommended for their promotion to the rank of Odisha Revenue Service , (ORS) Group-B (Jr. Branch) by way of promotion for the recruitment year 2020. It is submitted that though the petitioners were having three Outstanding CCRs during the preceding five years i.e. from 2014-15 to 2018-19 and accordingly in view of the provisions contained under Rule 3 of the Odisha Civil Service (Criteria for Selection for appointment including Promotion) Rules, 2003, the petitioners were eligible for consideration of their claim for promotion, but the Selection Committee did not recommend the case of the petitioners on the ground that the petitioners are not having outstanding CCRs for the entire period of five years.

Learned counsel for the petitioners submitted that because of such illegality committed by the Selection Committee, the name of the petitioners, in spite of their clear eligibility, were not recommended and accordingly they were deprived from getting the

benefit of promotion while persons junior to them placed in the Gradation list were given such promotion after due concurrence of the Orissa Public Service Commission on dated 22.12.2021 under Annexure-5. Learned counsel for the petitioners submitted that challenging such action of the Opp. Parties in depriving them the benefit of promotion, the petitioner approached this Court in different writ petitions. This Court disposed of the matters by directing Opp. Party No.1 to consider the claim of the petitioners and to pass appropriate order in accordance with law.

Learned counsel for the petitioner submitted that during pendency of their claim in terms of the order passed by this Court, when the impugned notification was issued by Opp. Party No.1 on 29.6.2022 under Annexure-10 to fill up the post of for ORS Group-B by way of promotion for the recruitment year 2021, the present writ petition was filed.

Learned counsel for the petitioner submitted that since petitioners were having three outstanding CCRs during the preceding five years, non-consideration of their claim by the Selection Committee and

consequential denial of promotion on the face of such being extended in favour of juniors is liable for interference of this Court.

6. Mr. R.N. Mishra, learned A.G.A on the other hand made his submission basing on the stand taken in the counter affidavit. It is submitted that though the petitioners are having outstanding CCRs for three years during the period 2014-15 to 2018-19, but the Selection Committee decided to consider the claim of such employees who are having only five Outstanding CCRs for the entire period in question. Since the petitioners have got three outstanding CCRs during the period in question, their cases were not considered. It is also submitted that pursuant to the order passed by this Court in different writ petitions filed by the petitioners, Opp. Party No.1 vide different orders passed under Annexure-A/1 series rejected the claim of the petitioners. Mr. Mishra, learned A.G.A also submitted that since the Selection Committee in its proceeding held on 5.11.2021 considered the claim of the employees with having five Outstanding CCR for the entire period in question and the petitioners having only three outstanding CCR during the aforesaid period, no

illegality can be found in not recommending their case by the Selection Committee.

7. Heard learned counsel for the parties. Perused the materials available on record.

8. This Court after going through the same finds that while issuing the Notification under Annexure-3 on 18.11.2020, Opp. Party No.3 in Clause-(5) called for the CCRs of the concerned employees for the period from 2014-15 to 2018-19. In the said clause, it was clearly indicated that the employees having minimum three years of CCRs during the preceding five years from 2014-15 to 2018-19 may be recommended. Rule 3 of the Orissa Civil Services (Criteria for Selection of Appointment including Promotion) Rules, 2003 also clearly provides that cases of such employees with having CCRs for at least a period of three years during preceding five years are eligible for their consideration. Since as admitted by the opp. Parties in their counter, the petitioners were having three outstanding CCRs during the period 2014-15 to 2018-19, non-consideration of their claim by the Selection Committee as per the considered view of this Court is not just and proper.

9. Opp. Party No.1 in Para 9 to 13 of the counter affidavit has submitted as follows:

“9. That, pending compliance of the orders of this Hon’ble Court in above noted cases, the present writ petition has been filed by the petitioners praying for same relief. The recommendations of the petitioners were received by the Hoard of Revenue, Odisha, Cuttack along with their CCRs for consideration of promotion to Odisha Revenue Service (ORS), Group-B against the recruitment year, 2020. Out of required preceding five years CCRs, the petitioner, Kali Prasad Dehury and Sitakanta Pradhan had “Outstanding” CCRs for three years, “Very Good” for one year and “Good” for one year. The petitioner, Iswar Guru had only three years of “Outstanding” CCRs and the petitioner, Biplab Keshari Singh had three years “Outstanding” CCRs and two years “Very Good” CCRs.

10. That, the petitioners who belong to revenue filed staff category (Revenue Inspector/Revenue Supervisor) were placed in the common Gradation List prepared for Revenue Field Staff category for the purpose of recruitment. In the said gradation list, the petitioners, Kali Prasad Dehury, Biplab Keshari Singh, Sitakanta Pradhan and Iswar Guru were placed at serial no.-58,59,61 & 62 respectively.

11. That, Selection Committee in its meeting held on 5.11.2021 under the Chairmanship of Member, Board of Revenue set up a merit benchmark on the basis of CCR evaluation for selection of candidates for the post of Odisha Revenue Service (Group-B). Copy of the proceedings of the Selection Committee meeting held on 05.11.2021 is annexed as Annexure-B/1.

12. That, according to benchmark set, candidates having five “Outstanding” full years of CCRs will be taken up first to meet the required vacancies and in case the vacancies are not filled up, then five “Outstanding” including major part year of CCRs will be taken into consideration to meet the required vacancies, treating the “Outstanding” CCRs of 6 months and above as “Outstanding” full year irrespective of CCR rating of rest month of year.

13. That, Dhananjaya Sahoo placed at serial no.101 of the common gradation list, though junior to the petitioners has been selected by the Selection Committee as he met the merit

benchmark in terms of CCR evaluation set by the Selection Committee having five years "Outstanding" CCRs".

10. This Court also finds that as against the total 188 posts meant to be filled up by way of promotion, indicated in Annexure-3, 129 posts were meant for U.R, 21 posts for Scheduled Caste and 38 posts for Scheduled Tribe. As per Rule 4(b) of the Odisha Revenue Service (Recruitment Rules) 2011 and the amended Rules, 2020, out of the total 188 posts meant for such promotion, 40% posts are to be reserved for Revenue Field Staff. Taking into account the said provision, out of 188 posts, 75 posts were meant to be filled up by eligible Revenue Field staff and out of the 75 posts meant for Revenue Field Staff, 52 posts were meant for U.R, 8 for Scheduled Caste and 15 for Scheduled Tribe Category. This Court finds from the proceeding of the Selection Committee Meeting annexed vide Annexure-B to the counter, that not a single candidate belonging to SC and ST have been recommended as against the available vacancies meant for S.C & S.T from amongst the Revenue Field Staff. Since the petitioners in the present case belong to S.C & S.T category and they possess as admitted by the Opp.

Parties, of having three outstanding CCRs during the preceding 5 years, the petitioners were eligible for their consideration as against the posts meant to be filled up from amongst Revenue Field Staff in S.C & S.T category. This Court while holding so, directs opp. Party no.1 to convene a Review D.P.C and consider the claim of the petitioners as against the posts meant for Revenue Field Staff in S.C and S.T category. This Court also holds that on such reconsideration by the Review DPC, if it is found that the petitioners are otherwise eligible for their promotion, then necessary steps be taken to give them such promotion from the date juniors to the petitioners were given promotion with all consequential service and financial benefits. This Court directs opp. Party no.1 to complete the entire exercise within a period of three months from the date of receipt of this order.

11. The Writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack

Dated the 19th of October, 2022/sangita