

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 2787 of 2008

Siba Prasad Mallick

....

Petitioner

Ms. B.K. Pattnaik, Advocate

-Versus -

State of Odisha and others

....

Opposite Parties

Mr. N.K. Praharaj,

Standing Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

02.02.2022

Order No.

03

This matter is taken up through video conferencing mode.

2. The petitioner has filed this writ petition seeking to quash the selection of opposite party no.4 against the Home Guard category, and to issue direction to the opposite parties to select and appoint him as constable under Home Guard category with effect from the date when others have got appointment in pursuance of the selection under Annexure-5 with all benefits.

3. Ms. B.K. Pattnaik, learned counsel for the petitioner contended that the petitioner, who was working as a Home Guard, though appeared before the selection committee against the reserved vacancies of 10% to get into the service as a regular constable, the same has been denied by the authority. Therefore, the petitioner has approached this Court by filing the present writ petition.

4. Mr. N.K. Praharaj, learned Standing Counsel contended that against 10% quota, one post was made

available for the S.C. category. Since one candidate, namely, Abhimanyu Bhoi, has secured higher marks than that of the petitioner, he has been given appointment and, thereby, the case of the petitioner has not been considered. Thereby, no illegality or irregularity has been committed by the authority so as to warrant interference of this Court.

5. Having heard learned counsel for the parties and after going through the records, this Court finds that Orissa Police Service (Method of Recruitment and Conditions of Service of Constables) Order, 2006 regulates the recruitment to the post of Constables, of which para-8 of sub-section 3 provides about the procedure of reservation in respect of Home Guard candidates. Para-8 of Sub-section (3) is extracted hereunder:-

“There shall be 10% reservation of notified vacancies in the rank of constables in each district for Home Guards in each recruitment year. They will be eligible against the reserved vacancy under the respective category to which they belong, i.e., U.R., SEBC, S.C. and S.T.

6. As the number of vacancies of constables of the district was 94, the break up of vacancies being calculated as per the Government instructions which are extracted hereunder:-

<i>“Name of category</i>	<i>Total notified vacancy</i>	<i>10% of reserved</i>	<i>Rounded up</i>
<i>U.R.</i>	<i>47</i>	<i>4.7</i>	<i>5</i>
<i>SEBC</i>	<i>11</i>	<i>1.1</i>	<i>1</i>
<i>S.C.</i>	<i>15</i>	<i>1.5</i>	<i>1</i>
<i>S.T.</i>	<i>21</i>	<i>2.1</i>	<i>2</i>
	<i>94</i>	<i>9.4</i>	<i>9”</i>

7. As the number of vacancies under S.C. category was

15, on a simple arithmetical calculation, 10% of the figures would be 1.5, and 1.5 or less than that will be rounded up to 1. Had the figures rounded up to 2, one post would have been increased for which total reservation would have gone up to 10, i.e., beyond 9 and the total percentage of reservation would have gone up to 10.6%, i.e., beyond 10%.

8. After completion of physical measurement, physical efficiency test, written test as well as personality test, a merit list was published in alphabetical order of the names of candidates for general information, in which it was clearly mentioned that the same was not a select list but only a provisional list of marks secured by the candidates and it does not confer any claim for appointment and, as such, the petitioner and other candidates, who had appeared in the written test and personality test, their names were published in the merit list. Further, 10% of vacancies are to be reserved for eligible Home Guards against their respective category and since the petitioner belonged to S.C. category, as per the instructions, 16.25% of the total vacancy, i.e., 15 posts were reserved for S.C. category and out of 15 posts, 10% of the said category, is only one post, which was reserved for Home Guard candidates. As such, the petitioner had secured only 34.5 marks for which another eligible Home Guard candidate, namely, Abhimanyu Bhoi, secured higher marks than that of the petitioner being 43.5 marks, he was selected and appointed in the said post. Thereby, no illegality or irregularity has been committed by the authority by giving appointment to the candidate, who was secured higher marks under S.C. category.

9. In the above view of the matter, the writ petition merits no consideration and the same is hereby dismissed.

As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a print out of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed, vide Court's Notice No.4587 dated 25th March, 2020, as modified by Court's notice no. 4798 dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos.514 and 515 dated 7th January, 2022.

Ashok

(Dr. B.R. Sarangi)
Judge

