

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20070 of 2022
CONTC No.5577 of 2021

Tana Murmu

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
24.08.2022

Order No

02.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. P.K. Mishra, learned counsel for the Petitioner and Mr. Behera, learned Standing Counsel appearing for the Department.

3. The Petitioner has filed the present writ Petition with the following prayer:-

“It is prayed, therefore, that this Hon’ble Court may graciously be pleased to;

- i) *Direct the Opp. Parties to consider and promote the Petitioner to the post of Assistant Regional Transport Officer retrospectively w.e.f.21.10.2011 with all service and financial benefits as directed by the learned Odisha Administrative Tribunal in O.a. No. 1701 of 2017 shown at Annexure-7 and accordingly direct the O.Ps to revise the order dated 10.01.2019 under Annexure-8 by antedating his promotion to the post of Assistant Regional Transport Officer w.e.f.21.10.2011;*

- ii) *Consequent upon retrospective promotion of the Petitioner w.e.f.21.10.2011 this Hon'ble Court may be pleased to further direct the O.P. No. 1 and 2 to fix his seniority in rank of Asst. R.T.O. on the basis of placement shown in the minutes of D.P.C. dated 30.09.2011 under Annexure-5 series and accordingly consider the promote him further to the post of Additional Regional Transport Officer (Gen) in Group-A OTS cadre w.e.f.30.01.2022 when Annexure-17 notification of promotion was issued with all service and financial benefits;*
- iii) *And further direct Opposite Parties to disburse the differential arrears salary of the post of Assistant R.T.O. and Additional R.T.O. to the Petitioner within a time to be stipulated by this Hon'ble Court.*
- iv) *Pass such other order(s), direction(s) as deem fit and proper to the facts and circumstances of the case to give complete relief to the Petitioner;*

And for this act of kindness, the Petitioner as in duty bound shall ever pray."

4. It is submitted that seeking promotion in terms of the recommendation of the DPC dtd.30.09.2011 the Petitioner filed O.A. No. 1701 of 2017. Learned Tribunal vide order dtd.20.11.2018 under Annexure-7 dispose of the said O.A. with the following order:

"The O.A. is therefore, allowed. The respondents are directed to hold a review of D.P.C. dtd.30.09.2011 for consideration of promotion of the applicant to the post of Asst. R.T.O. and in case he is found suitable he be given promotion w.e.f. date his junior got promotion as per order dtd.21.10.2011 (annexure-7). Further he will be entitled to all service benefit accordingly. But the financial benefit will be given in terms of para-6 of G.A.

Department O.M. dtd.18.02.1994 of G.A. Department O.M. dtd.1.11.1997 on the subject.

The entire exercise be completed within a period of two months from the date of receipt of a copy of this orders.

With these orders, the O.A. is disposed of.”

5. It is submitted that pursuant to the said order when the Petitioner was given promotion w.e.f.05.01.2019 instead of from the date other persons were so promoted basing on the said recommendation of the DPC, the Petitioner approached this Court in W.P.(C) No.10980 of 2020. This Court disposed of the said writ Petition with a direction on the State-Opp. Parties to implement the order of the learned Tribunal so passed under Annexure-7. When the said direction of this Court was not complied with, the Petitioner filed CONTC No.4291 of 2021 and this Court vide order dtd.25.01.2021 allowed further 15 days time to comply with the said order. Instead of such order passed by this Court when the order was not complied, the Petitioner filed CONTC No. 5577 of 2021 and the present writ Petition was also filed with the aforesaid prayer.

6. In CONTC No.5577 of 2021 a show cause has been filed by O.P. No. 1 inter alia stating therein the reason for giving promotion to the Petitioner w.e.f.05.01.2019. This Court after going through the same finds that learned Tribunal while allowing O.A. directed Opp. Parties to give promotion to the Petitioner as per Order dtd.21.10.2011, but while directing so, learned Tribunal directed that the Petitioner will be entitled to get all the benefits accordingly in terms of Para 6 of G.A. Department Office memorandum dtd.18.02.1995 and office memorandum dtd.01.11.1997 on the subject.

7. Having heard learned counsel for the Parties, this Court when expressed its view that the Petitioner is entitled to get promotion w.e.f.21.10.2011 on notional basis. Mr. Mishra, learned counsel for the Petitioner accepts the said view of this Court. Mr. Behera, learned Standing Counsel also submitted that he has no objection if the Petitioner will be given notional promotion w.e.f.21.10.2011.

8. In view of such submission made by learned counsel appearing for the Parties, this Court while disposing the writ Petition as well as CONTC No. 5577 of 2021, directs O.P. No. 1 to accord promotion to the Petitioner on notional basis w.e.f.21.10.2011. It is needless to mention that on such extension of promotion on notional basis the Petitioner be given his due seniority in the rank of ARTO. The entire exercise shall be completed with passing of a fresh order by showing such extension of benefit of notional promotion w.e.f.21.10.2011 within a period of three (3) months from the date of receipt of this order.

9. The writ Petition as well as Contempt Petition are disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha