

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 672 of 2021

Rashmi Ranjan Baral

....

Appellant

Mr. Satyajit Behera, Advocate

-versus-

State of Odisha and others

Respondents

Mr. L. Samantaray, AGA

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S.SAHOO**

ORDER (Oral)

11.01.2022

Order No.

02.

1. This matter is taken up through virtual mode.

2. The writ appeal has been filed challenging the order dated 2.8.2021 passed by the learned Single Judge in WPC(OAC) No. 1084 of 2017.

3. By the said order of the learned Single Judge, the writ petition has been dismissed. The writ petition has been registered after the original application filed before the learned Odisha Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 1084(C) of 2017 filed on 28.4.2017, was transferred and renumbered as WPC(OAC) No. 1084 of 2017. The relevant portion of the order dated 2.8.2021 is extracted herein :

“2. This matter has been taken up on several times and this Court time and again directed the Competent Authority for production of the original record at least to find the veracity in the

submission of the learned counsel for the petitioner.

3. Today, Sri Panigrahi, learned A.G.A. on instruction makes a statement that the process of interview continued in between 2016 and 2017 and there being no direction for preserving such record as per system prevailing, the Authority destroyed the records involved.

4. This Court on perusal of order-sheet finds, there is in fact no preservation of records creating difficulty in getting into such disputes. For such state of affairs, this Court finds no possibility of observing the records to get into the truthfulness in the allegation of the Original Application being transferred and registered as WPC(OAC) 1084 of 2017. For the practical difficulty, this Court declines to entertain the Writ Petition, which is dismissed accordingly.”

4. The case of the appellant-petitioner is that he was an applicant pursuant to the advertisement dated 8.11.2006, for recruitment of Sepoy, in Odisha State Armed Police (“OSAP” for short), in nine different battalions. The appellant-petitioner was an applicant for OSAP 7th Batallion, Bhubaneswar in the SEBC category (Socially, Educationally Backward).

5. Earlier, the appellant had filed O.A. NO. 2649(C) of 2016 which was disposed of by the State Administrative Tribunal by order dated 7.9.2016 at the stage of admission. The operative portion of the said order dated 7.9.2016 is quoted herein :

“Considering the submission of both sides and without going into the merits of the case, copy of the paper book containing the representation (Annexure-8) and supported documents be sent to respondent No.2 at the cost of the applicant with a direction to consider the grievances made therein and dispose of the same, taking into consideration Annexure-7 and other annexures available in the O.A., within a period of three months from the date of receipt of a copy of this order and communicate result thereof to the applicant immediately thereafter.”

6. In compliance of the order dated 7.9.2016 (Annexure-9) passed by the learned Tribunal, the Director General & Inspector General of Police passed order dated 29.3.2017 (Annexure-10), which is impugned in the WPC(OAC) No.1084 of 2017. The order passed by the D.G. & I.G. of Police is annexed to the writ petition as Annexure-10 and the relevant portion is quoted herein :

“Perused the relevant records of Sri Rashmi Ranjan Baral. Records indicate that in the advertisement dt.29.10.2006 for recruitment of Sepoys in OSAP/OSAP(SS) Battalions, it had been stipulated that the candidates have to submit self-attested copies of their certificates. From the proceeding of the Battalion level Selection Board for recruitment of Sepoys of OSAP 7th Battalion, Bhubaneswar, it is found that before preparation of the final select list, the selection board had scrutinized 105 application forms. The selection board had rejected the application of Sri Rashmi Ranjan Baral (SEBC) (Regd. No.789) and 4(four) other candidates on the ground that they had failed to submit at least one copy of self-attested copy of certificate. Hence, it is established that the

applicant has falsely stated in his representation that he had submitted all documents duly signed by him.

The Hon'ble High Court, in their Order No.02 dt.5.11.2012 passed in Contempt Petition No.743/2012 arising out of WPC NO.20249/2009, have directed to complete the process of re-drawing fresh select list of U.R. candidates for filling up 773 posts in accordance with merit from the select list.

The above orders of the Hon'ble High Court has already been implemented and fresh select list of U.R. candidates for filling up 773 posts in accordance with merit from the select list has since been re-drawn. As the application form of Sri Rashmi Ranjan Baral had been rejected by the Battalion Level Slection Board on the ground that he had failed to submit at least one copy of self-attested copy of his certificates, the question of selection of the applicant in the re-drawn list as per orders of Hon'ble Court, does not arise.

In view of the facts stated above, the prayer of the applicant, Sri Rashmi Ranjan Baral for his appointment as Sepoy in OSAP 7th Battalion, Bhubaneswar as per the above advertisement and orders of the Hon'ble High Court does not have any merit; hence rejected.”

7. The Original Application was filed by the appellant/ petitioner in the year 2016, challenging the recruitment conducted in the year 2006. For the reasons best known to the petitioner, the delay of 10 years is not explained, rather, the Original Application was disposed of on 07.09.2016 at the stage of admission with a direction for disposal of the representation of the petitioner-appellant. The appellant did not challenge the said order passed by

the learned Tribunal dated 7.9.2016 and the said order has been complied with.

8. Regarding the facts of the case, the Director General of Police-Respondent No.2, has, referred to the proceeding of the Battalion Level Selection Board for recruitment of Sepoys of OSAP 7th Battalion, Bhubaneswar and found that before preparation of the final select list, the selection board had scrutinized 105 application forms and five candidates were rejected on the ground that they failed to submit at least one copy of self-attested copy of certificate. Out of the said five candidates, the present appellant was one in the SEBC category, having registration number 789.

9. Further there has been other related developments pertaining to the selection process of 2006. The selection process was challenged in O.A. No. 1815(C) of 2008 and OA. No. 2915(C) of 2006. After disposal of the O.As by order dated 13.9.2007, the said order was challenged in W.P.(C) No.20249 of 2009 and batch of writ petitions, i.e., (W.P.(C) No. 14936 of 2009, W.P.(C) No. 6426 of 2011, W.P.(C) No. 5503 of 2011 & W.P.(C) No. 27197 of 2011) and disposed of on 15.12.2011 with the following order :

“In view of such we have no hesitation to quash the directions of the learned Tribunal in paragraph 21(ii)(iv) of the common order passed in O.A. No.2915 of 2006 and 135 other cases. As the selection process is on going process, the State Government is at

liberty to make fresh recruitment of Constables and we further direct the opposite party-State to redraw the select lists in terms of the judgment eliminating those who are the beneficiaries under Clause (ii) and (iv) of paragraph-21 of the judgment of the learned Tribunal.

In view of disposal of the writ petitions, all misc. cases stand disposed of accordingly.”

10. The order dated 14.8.2011 passed in W.P.(C) No.5050 of 2012 and order dated 5.11.2012 passed in R.P. No.221 of 2012 and in CONTC No.976 of 2012 were challenged by the State before the Hon'ble Supreme Court in SLP (C) Nos.19979-19981/2013 and the SLPs. were dismissed vide order dated 14.1.2016.

11. After dismissal of the SLPs, CONTC No. 743 of 2012 was filed alleging non-compliance of the order dated 15.12.2011 passed in W.P.(C) No. 20249 of 2009 and batch. A review petition bearing RVWPET no. 221 OF 2012 was filed seeking review of the order dated 17.12.2012 passed in W.P.(C) No. 20249 of 2009.

12. CONTC No.743 of 2012 was disposed of by order dated 5.11.2012 with the following order :

“In view of the order passed today in RVWPET No.221 of 2012 the present contempt is dropped. The State-respondent was directed as per order passed in the writ petition to re-draw a fresh select list of unreserved candidates for filling up the 773 posts in accordance with merit from the

select list without any further delay. It is stated that the State-respondent has started the process of re-drawing fresh select list of unreserved candidates for filling up the 773 posts in accordance with merit from the select list.

We direct the State-respondent to complete the process of re-drawing fresh select list of unreserved candidates for filling up the 773 posts in accordance with merit from the select list within a period of two months.”

13. After disposal of the SLP and as per directions dated 5.11.2012 in CONTC No. 743 of 2012, the orders have been implemented and, therefore, the select list of unreserved candidates for filling up posts advertised in accordance with merit was revised and the list has been re-drawn.

14. The petitioner's attempt after ten years, to challenge the rejection of his candidature is a much belated effort, also has been impacted by the subsequent developments, i.e., several pronouncements by the several judicial forums, such as the order dated 13.9.2007 passed by the learned Tribunal in O.A. No. 2915 of 2006 along with 135 Original Applications which were heard analogously and disposed of by a common judgment dated 13.9.2007; the order of the Tribunal was challenged in W.P.(C) No. 6426 of 2011 (Bijay Kumar Swain v. State); the order dated 13.9.2007 passed by the Tribunal in paragraph 21(ii)(iv) of the common order in 136 cases,

was set aside by this Court by order dated 15.12.2011 passed in the batch of writ petitions, i.e., W.P.(C) No.20249 OF 2009, W.P.(C) No. 14936 of 2009, W.P.(C) No. 6426 of 2011, W.P.(C) No. 5503 of 2011 & W.P.(C) No. 27197 of 2011.

The order of this Court, was confirmed by the Hon'ble apex Court vide order dated 14.1.2016 dismissing the SLPs. filed by the State.

The appellant had filed the first O.A. in the year 2006, i.e, O.A. No. 2649(C) of 2016 which was disposed of on 7.9.2016. Such grossly belated effort of the appellant to challenge a selection process is misconceived and has to fail.

In view of the discussions made above, the order passed by the learned Single Judge is not to be interfered with and accordingly, the writ appeal is dismissed.

(Jaswant Singh)
Judge

(M.S.Sahoo)
Judge

dutta

January 11th, 2022
Cuttack