

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No.251 OF 2009

Sumit Nilam

.....

Petitioner

Mr. P.K. Rath, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

11.01.2022

Order No.
01

This matter is taken up through video conferencing mode.

2. Heard Mr. Nayak, learned counsel on behalf of Mr. P.K. Rath, learned Counsel for the petitioner.

3. The petitioner has filed this writ petition seeking direction to the opposite parties to absorb him in the existing vacancy of Group-C post and in case the existing vacancy of the Group-C post has already been filled up, locate the vacancy in any other administrative control of the Department or follow the Rules as prescribed under Rule-7 for promotion of the petitioner to the higher post within a stipulated period.

4. Mr. Nayak, learned counsel for the petitioner emphatically submitted that the petitioner's father died while in service leaving behind his wife and other legal

representatives. After his death, the petitioner submitted his application in the prescribed format under OCS (RA) Scheme, 1990 for compassionate appointment against any Group-C post so as to mitigate the hardship of his family and after due consideration, the petitioner was given appointment under Group-D post and he joined. Now, the petitioner claims for appointment against Group-C post or any other similar administrative post befitting his qualification.

5. Mr. B. Mohanty, learned Standing Counsel for School and Mass Education Department contended that since the petitioner has already accepted the offer of appointment in Group-D post, he cannot make any choice to get appointment under Group-C Post subsequently.

6. Having heard learned counsel for the parties and after going through the records, since the petitioner has already exercised his option and accepted his appointment under Group-D post, he cannot claim subsequently for appointment in any Group-C post under OCS (RA) Scheme. Once such option has been exercised and joined in the Group-D post, the petitioner cannot make any claim to give him appointment against Group-C Post and as such, such post is not available.

7. In view of the above, the claim of the petitioner for appointment in any Group-C post cannot sustain in the eye of law. Accordingly, the writ petition is disposed of.

8. 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.

Alok

(DR. B.R. SARANGI)
JUDGE

