

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.22310 of 2022

Sabita Rath

....

Petitioner

Mr. Sameer Kumar Das, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. P.K. Rout, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.11.2022

Order No.

02.

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

2. Heard Mr. S.K. Das, learned counsel for the petitioner as well as Mr. P.K. Rout, learned Additional Government Advocate for the State. Perused the record.

3. The present writ petition has been filed by the petitioner with a prayer for direction to Opposite Party Nos.1 and 2 to promote the petitioner to the post of CDPO as per recommendation of DPC dated 27.12.2021 under Annexure-2 without any discrimination to her and to grant all consequential service and financial benefits from the date similarly situated Supervisors have been given promotion pursuant to order dated 06.08.2022 under Annexure-3.

4. It is submitted by learned counsel for the petitioner that the petitioner is working as an ICDS Supervisor under W&CD Department, Government of Odisha vide Order No.4213 dated 19.11.1992. The Government of Odisha, Women and Child Welfare Development and Mission Shakti notified 73 vacancies in the post of CDPO. In view of such vacancy, the DPC was convened and upon consideration of service

records and CCR of the candidates total 73 candidates have been recommended to be promoted as CDPO as per the list enclosed to the writ petition.

5. It is submitted by learned counsel for the petitioner that the name of the petitioner finds place in the final select list of 73 candidates. He further submits that out of 73 selected candidates in the DPC only 56 candidates have been promoted to the post of CDPO as per Annexure-3 dated 06.08.2022. Thereby, the petitioner has been discriminated and she has not been given promotion to the post of CDPO although she was found eligible and suitable in the DPC held by the department. Although the petitioner approached the competent authority, i.e. Commissioner-cum-Secretary, Women and Child Welfare Development, Bhubaneswar, however, no decision was taken in the matter and as such, the petitioner has not been promoted as of now to the post of CDPO. Due to such inaction, the petitioner approached this Court by filing the present writ petition.

6. Learned counsel for the State, on the other hand, submits that although 73 posts notified by the Government for DPC, the DPC was convened to fill up such vacancies, however, promotions are being given in a phased manner and depending on urgency, therefore, the case of the petitioner shall be considered in due course of time in the event it is found that she is eligible and has been recommended by the DPC. In such view of the matter, the writ petition is premature and liable to be dismissed at the threshold.

7. Having heard the rival contentions of learned counsel for the parties, this Court is of the considered view that though the DPC has considered and recommended for promotion names of 73 candidates, however, only 56 candidates have been given promotion. Such conduct is highly discriminatory and as such violates Article-14 of the

Constitution of India. So far as the present petitioner is concerned, on perusal of the materials placed before this Court, it is observed by this Court that the claim of the petitioner has not been denied by the opposite parties. Therefore, this Court has reasons to presume that there are vacancies and since the petitioner is eligible as her case was recommended by the DPC, this Court disposes of the writ petition by directing the Opposite Party No.1 to give promotion to the petitioner on the basis of recommendation of the DPC dated 27.12.2021 in the manner it has been done in the case of other similarly situated candidates within a period of four weeks from the date of production of certified copy of this order. The petitioner is directed to approach to the Opposite Party No.1 within two weeks from today along with certified copy of this order.

8. Further, it is directed that the promotion of the petitioner shall have effect from the date of promotion of other persons who have been promoted and accordingly service benefits shall be calculated on that basis and be paid to the petitioner.

9. With the aforesaid observation and direction, the writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge