

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 121 of 2009

Damayanti Jagat

.....

Petitioner

Mr.L. Samal, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite parties

Mr. B. Mohanty, SC for S&ME

Deptt.

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

12.01.2022

Order No.

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This matter is taken up through video conferencing mode.

2. Heard Mr. L. Samal, learned counsel for the petitioner and Mr. B. Mohanty, learned Standing Counsel for S&M.E. Department.

3. The petitioner files this writ petition seeking for quashing of the order under Annexure-8 and to direct opposite party no.4 to issue appointment in her favour against any Class-III non-teaching post forthwith under the administrative control of opposite party no.4, in view of recommendation made by opposite party no.3.

4. Mr. L. Samal, learned counsel for the petitioner contended that the petitioner applied for her appointment under the Rehabilitation Assistance Scheme and considering the same, the petitioner was issued with appointment under Class-IV post though vacancies in Class-III post were lying vacant. Therefore, the petitioner claimed for her appointment under Class-III non-teaching post so as to mitigate her hardship.

5. Mr. B. Mohanty, learned Standing Counsel for the School & Mass Education Department contended that since the

petitioner has already accepted Class-IV post and continuing in the said post, now the question of consideration of her appointment in Class-III non-teaching post, does not arise and as such, there is also no vacancy available in Class-III non-teaching post, so as to consider her case for such appointment. It is further contended that the petitioner has approached various authorities including the Lokpal, Orissa, but since the vacancy is not available in Class-III post the question of consideration of her case in Class-III non-teaching post does not arise.

6. Having heard learned counsel for the parties and after going through the record, it is evident that the petitioner being the widow of Late Sankar Prasad Jagat, who was working as the Primary School Teacher under the D.I. of Schools, Titlagarh, applied for her appointment under Rehabilitation Assistance Scheme after the death of her husband. The Deputy Director, (F.E.) recommended her case vide order dated 08.03.2002 to the Director, Secondary Education, Orissa to include the name of the petitioner in the priority list for consideration and appointment against Class-III non-teaching post keeping in view the letter of the Government in School & Mass Education Department dated 07.09.2000 and the restriction imposed by the Finance Department in filling up the vacancies. The Government of Orissa in School & Mass Education Department vide order dated 24.04.2007 allotted 41 number of approved posts, i.e. 14 number of Junior Clerks and 27 number of Class-IV posts for appointment under Rehabilitation Assistance Scheme. The Director, Secondary Education in his letter dated 07.05.2007 sponsored 53 number of eligible candidates to Bolangir Circle prepared on priority basis for appointment under Rehabilitation Assistance Scheme. The petitioner's name found place at Sl. No.

42 for giving her posting under Class-IV post. Even if the petitioner possesses the higher qualification that does not and cannot be ground for her appointment as Junior clerk as per the government letter dated 23.06.2007. Fourteen (14) number of candidate from Sl. Nos. 1 to 14 of the eligible list had been considered for appointment as Junior Clerk and twenty seven (27) number of candidates from Sl. Nos. 15 to 44 had been considered for appointment against Class-IV post under Rehabilitation Assistance Scheme except some ineligible candidates. The candidates whose name finds place from Sl. No.15 to 41 having secured higher qualification and having accepted the appointment as against Class-IV post and the petitioner also having accepted her appointment against Class-IV post, she cannot now claim for her appointment against Class-III post.

7. In that view of the matter, this Court is not inclined to entertain the writ petition since the same merits no consideration.

8. The writ petition thus stands dismissed.

9. 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.

Arun

(DR. B.R. SARANGI)
JUDGE