

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 4321 of 2010

Madan Mohan Panda

.....

Petitioner

Mr. S. Behera, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. S. Nayak, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

17.10.2022

Order No.
02.

This matter is taken up through hybrid mode.

2. Heard Mr. S. Behera, learned counsel for the petitioner and Mr. S. Nayak, learned Additional Standing Counsel appearing for the State-Opposite Parties.

3. The petitioner has filed this writ petition seeking following relief:-

“Under the circumstances it is humbly prayed that this Hon’ble Tribunal may be graciously pleased to set aside the undertaking furnished by the applicant in Annexure-12.

And further be pleased direct regularization of services of the applicant retrospectively.

And also be pleased to direct the authorities to consider the case of applicant for his promotion to the post of Forester from the date of his juniors marched over him;

And also further be pleased to count the entire period from the date of joining the post as qualifying period for the purpose of pension and other service benefits;

And further also be pleased to direct for grant of annual increments and other service benefits within the time framed;

And/Or pass any other order/orders as this Hon’ble Tribunal deems fit and proper in this case;

And allow this original application with cost.”

4. Mr. S. Behera, learned counsel for the petitioner contended that pursuant to the order dated 04.08.2005 passed by the tribunal in O.A. No. 655 of 2003, the service of the petitioner has to be

regularized. But getting information from the Government Pleader, the Divisional Forest Officer, Angul imposed certain conditions, such as, (i) to clear the recruitment test, (ii) no claim on salary and dues for the period of past service and (iii) service will be terminated if the petitioner fails to clear the test and, as such, the petitioner has to furnish an undertaking to that effect. It is contended that no such condition has been stipulated by the tribunal while disposing of the original application. But after obtaining of the information from the Government Pleader, such condition has been imposed. It is contended that the petitioner has already furnished an undertaking on 09.03.2002. Thereafter, on the very same day the petitioner submitted his joining report along with medical fitness certificate and was posted at Lembutalia-I Beat under Angul Forest Division on 25.03.2006 and, as such, the petitioner has already been promoted to the post of Forester on 06.12.2013. It is contended that since there was no direction of the tribunal with regard to furnishing the undertaking but the DFO put the condition to furnish such undertaking and in compliance thereof the petitioner has furnished the undertaking, the same cannot sustain in the eye of law.

5. Mr. S. Nayak, learned Additional Standing Counsel appearing for the State-Opposite Parties contended that while implementing the order of the tribunal, the DFO, Angul has raised certain conditions, which the petitioner has complied by furnishing the undertaking and joined in the post. Once the petitioner has acted upon the condition stipulated by the authority by furnishing the undertaking, now he cannot turn around and, as such, he is bound by such terms and conditions, in view of the

principles of estoppel. It is contended that the petitioner is not entitled to get the benefits, as claimed in the writ petition. Consequentially, he seeks for dismissal of the writ petition.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the tribunal has disposed of the common judgment by directing the opposite parties for regular appointment of the petitioner through regular process of selection as a departmental candidate. But opposite party no.3 sought legal information from the Government Pleader, Angul on 10.10.2005 and after obtaining legal opinion, opposite party no.3 allowed the petitioner to continue as Forest Guard with stipulation, as mentioned above and by furnishing an undertaking, the petitioner has already accepted such condition. As such, after furnishing such undertaking, the petitioner has already joined in service and also got promotion in the meantime. Therefore, regularization of the petitioner being subject to furnishing undertaking by him, now it cannot be said that the same was not directed by the tribunal and the DFO, Angul has imposed such condition of furnishing undertaking for joining in the service. Once the petitioner was acted on the basis of the undertaking furnished by him, now he is estopped from making a prayer not to act upon the same. Therefore, the claim made by the petitioner cannot be acceded to.

7. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

(DR. B.R. SARANGI)
JUDGE

Ashok