

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C. (OAC) No.1193 of 2016

Bhagyadhar Behera

Petitioner
....
Mr. G.R. Sethi, Advocate

-versus-

State of Odisha & Others

Opposite Parties
....
Mr. L. Samantaray, AGA,
(for all contesting Opposite Parties-State)

CORAM:

JUSTICE M.S. RAMAN

ORDER

29.08.2022

Order No.

07.

1. This matter is taken up through virtual/physical mode.
2. The Original Application No.1193 (C) of 2016 was filed before the Odisha Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OAC) No. 1193 of 2016.
3. The petitioner challenged the action of the Opposite Parties in nominating twelve (12) officers who are arrayed as Opposite Parties here in this case to be considered for promotion to the rank of Superintendent of Police (Super Time Scale) without finalizing the gradation list. It is alleged that the Petitioner's name has not been nominated even though he was eligible for promotion.
4. The learned Administrative Tribunal vide order dated 30th March, 2016 in O.A. No.1193 (C) of 2016 passed the following order:

“Heard Mr. M.K. Khuntia, learned counsel for the applicant and Mr. B.Pujari, learned Govt. Advocate.

The learned counsel for the applicant stated that the applicant was initially appointed as S.I. of Police on 13.2.1981 and thereafter, he was promoted to the rank of Inspector of Police, Deputy Superintendent of Police and finally Addl. Superintendent of Police in the year 2008 by virtue of his seniority. It is mentioned that a provisional gradation list was prepared as on 31.12.2012 in respect of OPS Class-I (Sr. Branch), in which the name of the applicant finds place at sl. no.24. Again

another provisional gradation list of Police Officers in Odisha Police Service Class-I, Gr. A (Sr. Branch) Cade in the rank of Addl. S.P. was prepared as on 31.05.2015 as per catch-up principle on 12.06.2015, inviting objection under Annexure-7, in which the name of applicant finds place at sl. no.51. The applicant had filed objection to the said gradation list as he has got promotion earlier as per the ORV Act. The said provisional gradation list has not been finalized till yet. The grievance of the applicant is that without finalizing the tentative gradation list of Add. SPs, on the basis of position in the tentative gradation list, nominations of sl. no. 1 to 12 have been called for to be considered for promotion to the rank of Superintendent of Police (super Time Scale) whereas the nomination of the applicant has not called for though he is eligible for such promotion. As per Rule-6(3) no officer shall be eligible for such promotion to Odisha Police Service (Super Time Scale) unless he/she has completed 3 years of continuous service in the grade of Odisha Police Service Group-A (Sr. Branch) as on 1st day of January in the year when the committee meets. It is pertinent to mention here that the applicant is continuing in Odisha Police Group-A (Sr. Branch) since 2008 and as such fulfilled the eligibility criteria for promotion to Superintendent of Police (Super Time Scale). It is further submitted that law is settled that promotion cannot be given without finalizing the gradation list. But in the instant case the applicant is deprived of getting promotion to Superintendent of Police (Super Time Scale) as nomination of tentative gradation list of Addl. S.P.s have been called for to be considered for such promotion without finalizing the gradation list.

In view of the facts stated above, the case is admitted. Notice be issued, returnable within four weeks and rejoinder, if any, be filled within two weeks thereafter.

List this matter after six weeks.

So far as interim relief is concerned, one post in the rank of Superintendent of Police (Super Time Scale) be kept reserved till finalization of the O.A.

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5. At the time of hearing today, learned counsel for the Petitioner submitted that the matter has been rendered infructuous and prays for disposal of the Writ Petition.

6. In view of such submission, the Writ Petition stand disposed of as infructuous.

(M.S. Raman)
Judge

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