

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.1812 of 2016

Bibhusmita Mahapatra

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

16.08.2022

Order No

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

2. Heard Mr. L.P. Dwivedy, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned Standing Counsel appearing for the Opp. Parties.

3. The Petitioner is aggrieved by the qualification prescribed in the advertisement issued by the C.D.M.O., Ganjam, Berhampur under Annexure-6. It is submitted that the Petitioner possesses the qualification of GNM and she is eligible for her appointment to the post of Staff Nurse. But it is submitted that in view of the stipulation contained in Annexure-6 i.e. the candidate must have passed +2 Science, the Petitioner was aggrieved by such stipulation as the Petitioner does not possess +2 Science and in fact she possesses +2 Arts qualification.

4. It is submitted that as per the prospectus issued by the Govt. under Annexure-1, candidates those have passed +2 examination in Science/Arts/Commerce and other equivalent stream from the

Council of Higher Secondary Education, Odisha or equivalent examination are eligible to make their application for admission to nursing course. It is also submitted that Indian Nursing Council in its communication under Annexure-2 had also stipulated that Arts and Commerce students can be admitted for GNM program. It is accordingly submitted that the Petitioner having +2 Arts was allowed to take admission to the GNM course and she has also completed the same. She has also registered her name before the Odisha Nursing and Midwives Council vide Annexure-4.

5. Mr. Dwivedy also brought to the notice of this Court similar advertisement was issued by the C.D.M.O., Boudh under Annexure-8 where there is no such prescription i.e. must have passed +2 Science examination.

6. Mr. Balabantaray, learned Standing Counsel made his submission basing on the stand taken in the counter. It is submitted that in view of the notification issued by the Govt. in the Health & Family Welfare Department on 30.06.2015 under Annexure-A/1 in order to be eligible for appointment to the post of Staff Nurse, a candidate must have passed +2 Science examination. Accordingly, it is submitted that since the Petitioner has not possessed the said qualification of +2 Science, she is not eligible to make her application pursuant to Annexure-6 advertisement.

7. Heard learned counsel for the Parties. Perused the materials available on record. The Petitioner admittedly has passed the GNM course prior to issuance of the notification issued on 30.06.2015 under Annexure-11. By the time the Petitioner was allowed to

undergo such GNM course, candidates with 10+2 examination in Science, Arts & Commerce were eligible to take admission.

8. In view of the said guidelines Petitioner was only allowed to prosecute GNM, but also she passed the same successfully and she has registered her name before the Odisha Nursing & Midwives Council. The notification in question having been issued after the Petitioner completed the course cannot be made application to the case of the petitioner. Not only that on the face of similar advertisement issued by the C.D.M.O., Boudh under Annexure-8, this Court is of the opinion that the Petitioner's candidature should be considered by the C.D.M.O., Ganjam.

9. This Court further finds that while issuing notice of the matter, an interim order was passed with a direction not to reject the application of the Petitioner and the Petitioner was allowed to participate in the said examination with the rider that her result shall not declared and be kept in a sealed cover.

10. In view of such order passed by this Court and the opinion expressed hereinabove, this Court directs O.P. No. 3 to consider the claim of the Petitioner by opening the sealed cover. If on such opening of the sealed cover it is found that the Petitioner has qualified the test, then necessary order of appointment be issued in her favour. The entire exercise shall be completed within a period of two (2) months from the date of receipt of this order.

11. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

sangita