

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OA) No.505 of 2014

Laxmipriya Panda

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
20.10.2022**

Order No

2.

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. S.K.Das, learned counsel appearing for the Petitioner and Mr. A.P.Das, learned Addl. Standing Counsel for the State-Opposite Parties.

3. The Petitioner is aggrieved by the order dated 24.02.2014 passed by the Collector, Balasore-Opposite Party No.2, whereby the appointment of the Petitioner to the post of V.L.W extended vide office order dated 18.02.2014 under Annexure-5 was cancelled.

4. Learned counsel for the Petitioner submitted that the Petitioner was appointed as against the said post in terms of the provision contained under amended Rule-(2)(2) and 8(1)(a) of the Odisha Village Level Workers (Recruitment & Condition of Services) Rules, 2008.

5. It is submitted that the Petitioner being a women not only her claim is covered as per the aforesaid provision contained in the amended 2013 rule but also the Petitioner is protected by the provision contained under the Odisha Civil Services (Reservation of Vacancies for Women in Public Services) Rules, 1994.

6. It is submitted by misconstruing the provision and without giving any opportunity of hearing, the order of appointment issued under Annexure-5 was cancelled by the Opposite Party No.2 under Annexure-7. Accordingly, it is submitted that the said order needs interference of this Court.

7. It is also submitted that the learned Tribunal while issuing notice of the matter passed an interim order by staying the operation of the order at Annexure-7 and by virtue of that order, the Petitioner is continuing as against the said post till date.

8. Mr. Das, learned Addl. Standing Counsel for the State on the other hand made his submission basing on the stand taken in the counter affidavit. It is submitted that the Selection Committee while considering the claim of the petitioner and other similarly situated women candidate wrongly reserved 30% of the post for women candidate and subsequently when it was detected, the order of appointment was cancelled rightly vide Annexure-7. To the said stand taken in the counter affidavit, learned counsel for the Petitioner submitted that in view of the provision contained in 1994 rules as cited (supra), the benefit extended in favour of the Petitioner cannot be recalled.

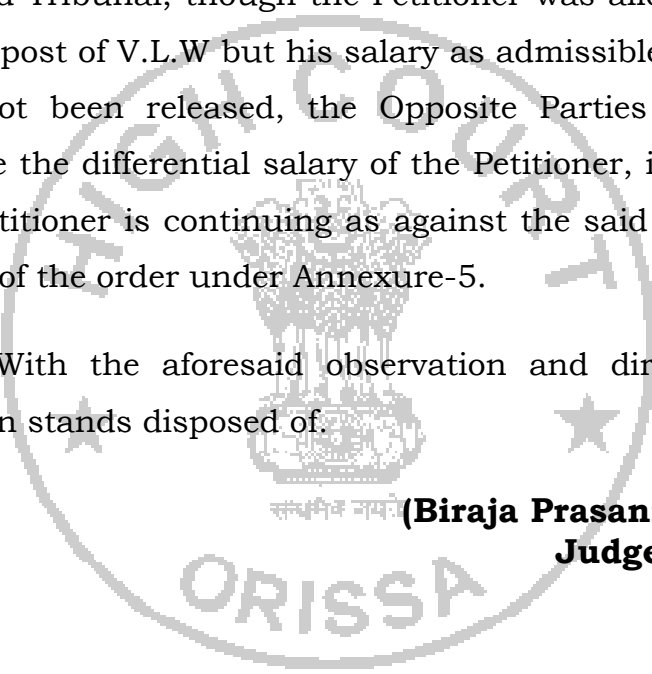
9. In view of such submission made by the learned counsel for the Parties, this Court finds that prior to issuing the impugned order, the Petitioner has never been show caused nor any opportunity of hearing was provided to her. It is also found that basing on the interim order passed by the learned Tribunal on 06.04.2014, the Petitioner is continuing in the post of V.L.W in terms of the order at Annexure-5 till date.

10. Therefore, this Court while quashing the impugned order dated 24.02.2014, so far as it relates to the Petitioner remanded the matter to the Opposite Party No.2 to take a fresh decision by giving a personal hearing to the Petitioner. This Court further observe that the Opposite Party No.2 while taking such a decision shall take into consideration the provision contained

under Odisha Village Level Workers (Recruitment & Condition of Services) Rules, 2008 as well as the provision contained in the Odisha Civil Services (Reservation of Vacancies for Women in Public Services) Rules, 1994. Such a fresh decision shall be taken within a period of three months from the date of receipt of this order. Till a fresh decision is taken, the interim order passed by the learned Tribunal on 06.04.2014 shall continue.

11. Since it is submitted by Mr.Das, learned counsel for the Petitioner that pursuant to the interim order passed by the learned Tribunal, though the Petitioner was allowed to continue in the post of V.L.W but his salary as admissible to the said post has not been released, the Opposite Parties are directed to release the differential salary of the Petitioner, if it is found that the Petitioner is continuing as against the said post of V.L.W in terms of the order under Annexure-5.

12. With the aforesaid observation and direction, the Writ Petition stands disposed of.

A large, faint, circular watermark seal of the Orissa High Court is centered on the page. It features the text 'ORISSA' at the bottom, 'HIGHER COURT' at the top, and a central emblem with a star on either side. Below the emblem, the text '(Biraja Prasanna Satapathy)' and 'Judge' are printed.
(Biraja Prasanna Satapathy)
Judge

Subrat