

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.589 of 2015

Pradeep Kumar Jena

....

Petitioner

-versus-

**D.G. & I.G. of Police,
Cuttack & Ors.**

....

Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
09.05.2022**

Order No

02.

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. B.B. Mohanty, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned standing counsel appearing for the State-Opp. Parties.

3. The Petitioner has filed the present writ Petition with the following prayer:-

"In view of the facts mentioned in para-6 above, the applicant prays for the following relief(s):-

i) The Original Application be allowed;

ii) Necessary direction may be issued to the Respondents to allot the name of the applicant to the Commandant OSAP 3rd Bn, Koraput for appointment as Junior Clerk against the existing vacancies of Junior clerk available under the OSAP 3rd Bn, forthwith or within a

*time to be stipulated by this Hon'ble Tribunal
with all consequential service benefits.*

*iii) Or pass any other order/orders as this
Hon'ble Tribunal may deem fit and proper;"*

4. It is submitted by Mr. Mohanty, learned counsel for the Petitioner that even though notice of the writ Petition was issued on 27.02.2015, but no counter affidavit has been filed by the State-Opp. Parties. Further it is submitted by Mr. Mohanty, learned counsel for the Petitioner that in the merit list of general candidates published under Annexure-3, the Petitioner was placed at Sl. No.14 with 59.4% marks. But when the Petitioner was not provided with the appointment, he filed the present writ Petition with the prayer indicated hereinabove.

5. It is submitted that persons placed at Sl. No.21, 22 and 24 with 52.5 marks approached the learned Tribunal in O.A. No.2431(C) of 2014, 2433(C) of 2014 and 2434(C) of 2014 praying for similar relief.

6. It is submitted that learned Tribunal vide a common order passed on 13.12.2016 dispose of the aforesaid original application along with batch by remitting the matter to the Departmental Promotion Committee to consider the case of the applicants therein for promotion to Group-C post on the basis of seniority.

7. It was also directed therein to complete the entire exercise within a period of 4(four) months from the date of receipt of the order. Mr. Mohanty accordingly submitted

that since the claim of the applicants in the aforesaid O.A. No.2431(C) of 2014, 2433(C) of 2014 and 2434(C) of 2014 with having lower percentage of marks and placed below the Petitioner have been remitted back for consideration vide order passed by the learned Tribunal on 13.12.2016, the Petitioner being similarly situated and placed above those applicants in the merit list, his case may also be remitted to the Departmental Promotion Committee to take a decision on his claim.

8. Mr. Balabantaray, learned standing counsel on being provided with a copy of the order passed by the learned Tribunal in the aforementioned original cases also did not dispute the same. Mr. Balabantaray did not raise any objection on remitting the matter to the Departmental Promotion Committee to consider the case of the present Petitioner.

9. In view of such stand taken by the respective counsels appearing for both the Parties and in view of the order passed in similar nature of claim by the learned Tribunal, this Court while disposing the writ Petition, remit the matter to the Departmental Promotion Committee to consider the case of the Petitioner for his promotion to a Group C post on the basis of his seniority.

10. This Court further directs that if the Petitioner is ultimately found suitable by the Departmental Promotion Committee, consequential action will be taken by the Opp. Party No.2.

11. The entire exercise shall be completed by the O.P. No.2 within a period of 3 (three) months from the date of receipt of the order.

12. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha

