

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No. 2952 of 2016

Uttam Kumar Pattnaik

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

Order
No

ORDER
22.08.2022

- 1.** 1. Heard Mr. S.K. Gartia, learned counsel appearing for the petitioner and Mr. R.N. Mishra, learned A.G.A for the State-Opp. Parties.
- 2.** The present writ petition has been filed with the following prayer:

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- (i) *Quash/set-aside the impugned order/letter(s) dt.20.8.2016 under Annexure-3 series so far the deputation to CITS training of the applicant is concerned as same is/are illegal, arbitrary and unsustainable in the eye of law and further declare that no further training is required for the applicant as he has already acquired the status of trained A.T.O as per Annexure-1 and certificate to the said effect has been issued under Annexure-2 declaring him to have qualified as Trained Craft Instructor in Engineering Drawing;*
- (ii) *Declare that the instruction/guidelines under Annexure-4 is prospective and is not applicable to the applicant.*

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3. It is submitted that the petitioner while continuing as an Asst. Training Officer in the establishment of the Opp. Parties, he was deputed to undergo the required three months training pursuant to the communication issued on 17.2.2005 under Annexure-1. It is submitted that the petitioner being an untrained A.T.O, he was directed to undergo the said training and the petitioner also successfully completed the same with issuance of certificate in his favour under Annexure-2. It is submitted that in view of such acquisition of training, the petitioner became a trained A.T.O and became eligible for his promotion to the post of Training Officer. But it is submitted that instead of treating the petitioner as a trained A.T.O, when the petitioner was directed to undergo fresh one year training pursuant to the impugned notice issued on 20.8.2016 under Annexure-3, the petitioner challenging the same, filed the present Writ Petition.

4. This Court while issuing notice of the matter vide order dated 26.8.2016 passed an interim order to maintain status quo in respect of the petitioner with regard to his posting. Mr. Gartia, learned counsel appearing for the petitioner submitted that since pursuant to Annexure-1, the petitioner undergo the required training and the certificate was issued in his favour under Annexure-2, the action of the Opp. Parties in directing the petitioner to undergo fresh one year training basing on Annexure-3 is illegal and the petitioner is not required to undergo any fresh training pursuant to the said notification dated 20.8.2016.

5. Mr. Mishra, learned counsel for the Opp. Parties on the other hand made his submission basing on the counter filed by Opp. Party Nos.1,2 & 4.

6. It is submitted that since the training undergone by the petitioner is a three months' training and undergoing 3 year CITS training is essential for promotion to the post of Training Officer, the petitioner was rightly asked to undergo one year CTIS training vide the impugned communication dated 20.8.2016 under Annexure-3. It is also submitted that the three months' PoT training was a temporary arrangement to meet the immediate requirement of trained Instructor at ITIs all over the country. But at a later stage, it is found that such training did not yield any fruitful result and keeping in view the guideline issued by the Govt. of India, petitioner was rightly directed to undergo the one year CITS training. ★ Mr. Mishra, learned A.G.A further submitted that the training undergone by the petitioner became ineffective in view of the communication issued by the Govt. of India on 29.9.2010 under Annexure-E to the counter. Accordingly, Mr. Mishra, learned A.G.A submitted that the petitioner has no locus standi to challenge the direction issued under Anneuxre-3 and he has to undergo the said training in order to be treated as a trained A.T.O and accordingly eligible to get promotion to the post of Training Officer.

6. A rejoinder is filed by the learned counsel appearing for the petitioner. In the said rejoinder, a stand has been taken that subsequent to the impugned notification issued on 20.8.2016 under Annexure-3,

Government-Opp. Party No.1, issued another communication on 29.4.2017 under Annexure-5 wherein it is held as follows :

“However, after careful consideration of the fact that, CITS training facilities is not available in the country in the trades of some ATOs working in various Government it is of the State and in pursuance of the clarification of DGT, New Delhi in this regard vide their letter No.DGY-08/1/2015-TOT dated 01.12.2016, Government have been pleased to prescribe the following relaxation provision in the promotion criteria of ATOs for whom CITS training facilities are not available in the country.

“ATO for whom CITS training facilities are not available in the country but (a) has completed 10 years of service and (b) undergone 3 months duration Principle of Training (PoT)/Training Methodology™ in the DGT field Institutes/NCVT affiliated IToTs, (c) undergone at lease one Refresher Training Module of minimum 1 week duration in any such Institute/Industry shall be exempted from CITS training for promotion subject to availability of vacancies.”

7. It is also submitted that basing on the said relaxation issued under Annexure-5, those A.T.Os whose promotion to the post of T.O was recalled vide order dated 7.10.2016 under Annexure-6. One of them was allowed to continue in his promotional post vide order dated 29.4.2017 under Annexure-7. Mr. Gartia, learned counsel appearing for the petitioner accordingly submitted that in view of the subsequent notification issued on 29.4.2017 under Annexure-5 when the benefit extended in favour of similarly situated A.T.O has been kept upheld, the petitioner is not required to undergo the one year CITS training in terms of Annexure-3. Learned Additional Government Advocate on the other hand submitted that the said communication dated 29.4.2017

under Annexure-5 was issued in respect of those A.T.Os, who are unable to acquire the required one year CITS training, as the said facility is not available in the particular trade. It is submitted that since training facility is available in respect of the petitioner's trade i.e. Engineering Drawing Trade, the petitioner is required to undergo the training.

8. Heard learned counsel for the parties. Perused the materials available on record.

9. This Court after going through the same finds that pursuant to Annexure-1, the petitioner not only undergo the required training, but also he completed the same successfully with issuance of certificate in his favour under Annexure-2. This Court finds that the impugned communication dated 20.8.2016 under Annexure-3 has been issued basing on the communication issued by the Government of India on 29.9.2010 under Annexure-E. But in the said communication, it is clearly indicated that the required one year CITS training is to be made applicable henceforth to the instructors from the date of issuance of the said communication. In the instant case, the petitioner has already undergone the training prior to issuance of the said communication dated 29.9.2010. As per the considered view of this Court, the petitioner is not required to undergo the one year CITS training pursuant to Annexure-3. This Court further finds that basing on the clarification issued on 29.4.2017 under Annexure-5, order of promotion issued in favour of similarly situated A.T.Os who have been given promotion to the post of Training Officer basing on the three months training acquired by

them and subsequently recalled vide order dated 7.10.2016 under Annexure-6, have been allowed to continue in the promotional post. Since persons holding similar three months training have been allowed the benefit of promotion by treating them as trained A.T.O, the direction on the petitioner to undergo one year CITS training, as per the view of this Court, amounts to discrimination and violative of Article 14 & 16 of the Constitution of India. Therefore, this Court after going through the materials held that since the petitioner has already undergone the training pursuant to Annexure-1 and in the communication dated 29.9.2010, it is clearly indicated that henceforth the instructors would not be given the status of training instructor unless completed the one year CITS training, the petitioner since has acquired the training prior to issuance of the said communication dated 29.9.2010, he is to be treated as a trained A.T.O. The petitioner is not required to undergo the one year CITS training pursuant to the impugned communication under Annexure-3.

10. With the aforesaid observation, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge