

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C. (OA) No.1899 of 2014

Pratap Keshari Mohanty

Petitioner

None

-versus-

State of Odisha and Others

Opposite Parties

Mr. P.K. Mohanty, Addl. Standing Counsel

CORAM:

JUSTICE M.S. RAMAN

ORDER

20.10.2022

Order No.

24.

1. The Original Application No.1899 of 2014 was filed before the Orissa Administrative Tribunal, Bhubaneswar Bench, Bhubaneswar. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OA) No.1899 of 2014.

2. The petitioner-Pratap Keshari Mohanty, Assistant Engineer, complaining that his case was ignored for promotion to the rank of Asst. Executive Engineer w.e.f. the date of such promotions given to the Opposite Party No.5-Sri Biranchi Narayan Das who is junior to the petitioner, alleged that the authorities manipulated the marks secured while taking into consideration academic qualification. The Opposite Party No.5 has filed objection by stating the following at paragraph-2:-

“That, it is submitted that, the petitioner filed this petition against Respondent No.5 & 6 for his seniority & promotion. It is fact that Sri Dambarudhar Panda, Respondent No.6 was promoted to the rank of Asst. Engineer under 33% promotion quota for Diploma holder Junior Engineers whereas Sri Biranchi Narayan Das, Respondent No.5 was promoted to the

rank of Asst. Engineer under 5% promotion quota for Degree holder Junior Engineers judging their joining seniority & other suitability. Both Respondent No. 5 & 6 were promoted from different quota. A Single petition is not maintainable for both Respondent No.5 & 6, as line of promotion for the post of Asst. Engineers & subsequent promotions of both are different. To avoid filing expenditure the petitioner has filed single petition against 33% quota of Respondent No.6 and 5% quota of Respondent No.5. Under 5% quota, Respondent No.5 was promoted to the post of Asst. Engineer & subsequent promotions by joining seniority in the post of Junior Engineer & other suitability. The applicant is junior to Respondent No.5 in every respect i.e. in joining & other suitability. The Respondent No.5 had joined on 26.09.1984 & petitioner on 27.09.1984. So the petitioner filed the petition to fix seniority above Respondent No.5 is illegal and baseless. The common gradation lists at Annexure 5 & 6 are common to all the Junior Engineers having Diploma qualification & Degree qualification. So the petitioner is not eligible to get promotion by fixing seniority above Respondent No.5 and he cannot claim promotion to the rank of Asst. Engineer with retrospective effect.”

3. Since none appeared for the petitioner to raise any objection to such factual detail furnished by the opposite party No.5, it is construed that the petitioner is no more interested to pursue the matter any further.

4. It may also be noteworthy to refer to Paragraph-4 of the objection, whereby the Opposite Party No.5 has clarified the position as follows:

“That, it is submitted that, it is well known to the applicant that the Engineer-in-Chief, Public Health, Orissa had issued gradation list vide letter No.920/EIIM14/89 dated 26.02.1996 (Annexure-12 of this O.A.) and Govt. in H & UD Department have issued Notification No.15736/HUD, dated 27.05.1997. According to the gradation list dated 26.02.1996, under 5% quota, 13 nos. of Junior Engineers having degree qualifications were promoted to the post of Assistant Engineers on 27.05.1997. In the gradation list dated 26.02.1996 the Sl. No. of the applicant Sri Pratap

Keshari Mohanty was 14 and that of Sri Basanta Kumar Rout & Sri Bhagyadhar Sahoo were 11 & 13 respectively. As Sri Basanta Kumar Rout, Sri Bhagyadhar Sahoo & 2 others were promoted to the rank of Asst. Engineer, PH vide H & UD Department Notification dated 27.05.1997, the Petitioner, Sri Pratap Keshari Mohanty filed O.A. No. 1543 of 1997 claiming retrospective promotion by fixing seniority over them, but could not be successful. Similarly, the Respondent No.5 of this O.A. whose Sl. No. was wrongly 17 in the above gradation list dated 26.02.1996, but it was corrected and became 11 due to the direction of Hon'ble Tribunal to respondents in O.A. No. 655 of 1999 vide order No.15 dated 11.11.2009 (Annexure-11 of this O.A.). The State Respondents also confirmed joining date of applicant of O.A. No. 655 of 1999, Sri Biranchi Narayan Das (Respondent No. 5 of this O.A.) as 26.09.1984 accordingly Respondent No.5 was promoted with retrospective effect from 27.05.1997 above Sri Basanta Kumar Rout and Sri Bhagyadhar Sahoo whereas the applicant could not be successful. But it is a matter of surprise that, further the applicant in this O.A. claiming his seniority above Respondent No.5, which is irregular & not correct. Respondent No.5 is senior to Sri Basanta Kumar Rout and Sri Bhagyadhar Sahoo as well as the Petitioner. It is not right to say that, Respondent No.5 is junior to Petitioner. In this connection his averments made in Para 6.5, 6.7, 6.10, 6.11 & 6.12 are in vain and illegal.”

Thus, it is stated that the case of the petitioner was rightfully not considered for promotion.

5. In view of the aforesaid factual details, this Court is not inclined to grant any relief to the petitioner. Hence, the writ petition is dismissed.

(M.S. Raman)
Judge

Basudev