

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C(OA) No.1773 of 2014

Labanyabati Sahoo

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

O R D E R

30.3.2022

Order No

1.

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. B.B. Mohanty, learned counsel for the petitioner and Mr. Praharaj, learned Counsel for the State-Opposite Party Nos.1 to 5.

3. The Petitioner has filed the present Writ Petition for the following reliefs.

“(i) The Original Application be allow;

(ii) This Hon’ble Tribunal may be pleased to direct the Respondents to issue order of appointment in favour of the applicant by preparing select list afresh in view of their decision scaling down the percentage of reservation for SEBC category forthwith retrospectively from the date of appointment of respondent No.6 and similarly placed other candidates appointed in pursuance of the advertisement dated 15.11.2010 with all consequential service benefits;

(iii) This Hon’ble Tribunal may be pleased to quash the order of appointment in favour of the Respondent No.6 as per Annexure-5;

(iv) And pass any other order / orders or direction / directions be issued so as to give complete relief to the applicant”.

4. It is contended by Mr. Mohanty, learned counsel for the Petitioner that pursuant to the advertisement issued under Annexure-1, the Petitioner participated in the selection process and in the combined merit list issued by the Orissa Staff Selection Commission, Bhubaneswar under Annexure-4, the Petitioner was placed at Sl. No.116 with having secured 201 marks and private Opposite Party No.6 was placed at Sl. No.120 with having secured 200 marks.

5. Accordingly, it is contended by the learned counsel for the Petitioner that since the Petitioner was placed above the private Opposite Party No.6 in the combined merit list, she should have been selected ahead of private Opposite Party No.6. But the commission vide office order dated 11.10.2013 under Annexure-5 while selected private Opposite Party No.6 in SEBC women category, the Petitioner was ignored from such selection and appointment.

6. It is also contended by the learned counsel for the Petitioner that similar issue was also brought to the notice of learned State Administrative Tribunal in O.A. No.1770 of 2014. The learned Tribunal vide its order dated 30.11.2018 while allowing the prayer directed the Opposite Party Nos.2 to 5 to recast the entire merit list for all types of posts advertised at Annexure-1 keeping reservation in SEBC category limited to 11.25 %. It was also directed that after recasting the entire merit list, the selected candidates in SEBC category be placed against each type of post as per their preference and after undertaking such exercise if the

Petitioner therein is found suitable, then he be offered appointment against such post.

7. It was also observed by the learned Tribunal that in case after such exercise, the Petitioner therein is appointed, his appointment shall be deemed to be from the date Opposite Party No.6 in the said case got such appointment with all service benefits notionally but actual financial benefit from the date he perform his duty.

8. Mr. Mohanty, learned counsel for the Petitioner also for perusal of this Court produced a copy of the said order passed on 30.11.2018 in O.A. No.1770 of 2014. As reflected in the said order, the Petitioner therein as like the present case had secured 227 marks and the Opposite Party No.6 in that case had secured 226 marks. Taking everything into account, learned Tribunal directed to recast the entire merit list for all types of posts advertised under Annexure-1.

9. Mr. Mohanty, accordingly prayed for interference of this Court and for a direction on the opposite parties to consider the case of the Petitioner in the light of the order passed by the learned Tribunal in the said O.A.

10. Mr. Praharaj, learned counsel for the State-Opposite Parties, though did not dispute the order passed by the learned Tribunal in the aforesaid O.A. No.1770 of 2014, but argued that since the selection list is of the year 2013 and process of selection has been completed, this Court should not interfere in the matter.

11. Having heard learned counsel for the Parties, and taking into account the order passed by the learned Tribunal in a similar case on 30.11.2018, where a direction has been issued to the Opposite Party Nos.2 to 5 to recast the merit list for all types of post advertised at Annexure-1, this Court directs the Opposite Party Nos.2 to 5 to recast the entire merit list for all types of post advertised under Annexure-1 by keeping reservation in SEBC category limited to 11.25%. This Court further directs the Opposite Party Nos.2 to 5 to provide appointment to the Petitioner after such recasting of the entire merit list and in case the Petitioner is found suitable against such post, for which the advertisement was issued. It is observed that the Petitioner will only be entitled to get the financial benefits notionally till he is appointed and actual financial benefit from the date he performs his duty.

12. This Court directs by Opposite Party Nos.2 to 5 to complete the entire exercise within a period of three months from the date of production of the certified copy of this order.

13. With the above observation and direction, the Writ Petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat