

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OAC) No.744 of 2014

Debananda Das

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

20.10.2022

Order No

3.

1. This matter is taken up through Hybrid Mode.

2. Heard Ms. M.Panda, learned counsel for Petitioner and Mr. Ch. S.Mishra, learned Addl. Government Advocate for the State-Opposite Parties.

3. The present Writ Petition has been filed with the following prayer:-

“(i) Order directing the respondents to produce all the relevant record along with return.

(ii) Order directing the Respondents to consider the case of the Applicant for the post of Jr. Laboratory Technician (Malaria) on contractual basis as per the resolution /Circular dated 03.03.2012 (Annexure-5) considering the qualification, experience and merit of the Applicant and quash the impugned order Annexure-1.

(iii) Order directing the Respondents to confer all consequential service benefits available to the Applicant under law.

(iv) Order allowing the application with costs”.

4. Learned counsel for the Petitioner submits that the Petitioner while continuing as a Laboratory Technician under Rogi Kalyan Samiti on daily wages basis, Government in the

Department of Health and Family Welfare Department-Opposite Party No.1 issued a circular on 03.03.2012 under Annexure-6 to fill the vacant post of Jr. Laboratory Technician (Malaria) in the State of Odisha.

5. It is submitted that since as per the said circular issued under Annexure-6, candidate with DMLT qualification from any of the three Government Medical Colleges of the State or from any AICTE approved institutions were given first preference, the Petitioner because of his acquisition of the said qualification from an institution registered with the Government of West Bengal was not considered for the post in question and he was disengaged vide order under Annexure-8. The Petitioner seeking re-consideration of his claim for appointment approached this Court in W.P.(C) No.24121 of 2012 and this Court vide order dated 19.11.2013 disposed of the said writ petition directing the Opposite Party No.4 to take a decision on the same.

6. It is submitted that only on the ground that the Petitioner does not possess the required DMLT qualification in terms of the eligibility prescribed under Clause-1 of the circular dated 03.03.2012, the Petitioner's claim was rejected vide the impugned order dated 18.12.2013 under Annexure-1.

7. It is submitted that since the Petitioner has acquired the said qualification from an institution registered with the Government of West Bengal vide Annexure-4, the Petitioner is eligible for such consideration and the said fact has also been taken note of by this Court in its judgment dated 11.12.2021 passed in W.P.(C) No.33301/2020 and batch. It is accordingly submitted that in view of the said decision of this Court, the case of the Petitioner needs a fresh re-look and consideration by the Opposite Party No.4.

8. Mr. Ch.S.Mishra, learned Addl. Government Advocate for the State on the other hand made his submission basing on the stand taken in the counter affidavit. It is not disputed by the

Petitioner that the Petitioner was engaged as a Laboratory Technician under Rogi Kalyan Samiti and while continuing as such he was disengaged vide order under Annexure-8. However, Mr. Mishra, fairly submitted that in view of the decision rendered by this Court as cited (supra), the Petitioner be permitted to move the Opposite Party No.4 for reconsideration of his claim.

9. In view of such stand taken by the learned counsel for the Parties, this Court while quashing the order at Annexure-8 permits the petitioner to make a fresh application before the Opposite Party No.4 seeking his reengagement as a Junior Laboratory Technician. It is observed that if any such application is moved before the said Opposite Party within a period of three weeks from today, the Opposite Party No.4 shall take a lawful decision on the same with regard to reengagement of the Petitioner as against any available vacancy in the District of Mayurbhanj. It is further observed while taking such a decision, the ratio decided by this Court in its judgment dated 11.12.2021 as cited (supra) shall also be taken into consideration. The entire exercise shall be completed within a period of three months from the date of receipt of such representation.

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

(Biraja Prasanna Satapathy)
Judge

Subrat