

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29010 of 2022

Parshuram Rout

....

Petitioner

Mr. A.K. Acharya, Advocate

-versus-

State of Odisha and another

....

Opposite Parties

Mr. P.C. Das, A.S.C.

**CORAM:
JUSTICE A.K. MOHAPATRA**

ORDER

06.12.2022

Order No.

04.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).

2. Heard learned counsel for the petitioner and learned Additional Government Advocate for the State. Perused the writ petition as well as documents annexed to the writ petition.

3. The present writ petition has been filed by the petitioner with a prayer to quash the Office Order No.29150 dated 16.11.2021 under Annexure-1 and further to quash the Office Order No.15564 dated 23.06.2022 under Annexure-2. Further, he has prayed for issuance of a direction to the Opposite Parties to allow the petitioner to join for the post of Assistant Executive Engineer pursuant to the recommendation of the Odisha Public Service Commission, Letter No.7187/PSC dated 31.12.2020.

4. It is submitted by Mr. A.K. Acharya, learned counsel for the petitioner that pursuant to the advertisement for appointment to the post of Assistant Executive Engineer, the petitioner appeared in the selection test conducted by Odisha Public Service Commission. After

selection test, the name of the petitioner was placed at Sl. No.2 of the select list notified on 05.04.2021. Accordingly, the name of the petitioner was recommended by the OPSC to the post of Assistant Executive Engineer. It is further contended that pursuant to the selection, the petitioner was offered the appointment letter by the authorities, which stipulates order of appointment that the petitioner was last on 20th of April, 2021. Thereafter, on the request of the petitioner for extension of time due to Covid-19, the same was extended up to 31.07.2021. However, the petitioner could not join as his resignation was not accepted by PPL, the previous employer, accordingly the petitioner again sought for extension in the date of joining up to 30.11.2021. However, the petitioner did not get any response from the authorities this time and the authorities cancelled the appointment vide letter dated 16.11.2021 under Annexure-1. Challenging the said order, the present writ petition has been filed.

5. Mr. Acharya, learned counsel for the petitioner further contends that in view of the G.A. Department Circular vide Office Memorandum dated 20th of September, 2019 under Annexure-9 more particularly, under clause-(4) it has been provided for an offer of appointment which has lapsed could only be revived under exceptional circumstances, the same shall only be revived in the public interest. The revival of such an offer of appointment is not permissible after one year from the date of approval of the select list or publication of the select list of the subsequent recruitment whichever is earlier. The GA & PG Department should in all cases be consulted before such offers are revived. In view of such circular of the GA & PG Department, Mr. Acharya, learned counsel for the petitioner submits that the appointment letter issued in favour of the

petitioner could be revived. He further submits that the post in respect of which the recruitment test took place is lying vacant and no further recruitment has been advertised by the OPSC in the meantime. Accordingly, Mr. Acharya, learned counsel for the petitioner urges that the opposite parties be directed to consider the case of the petitioner in the light of the GA & PG Department circular dated 20th of September, 2019 under Annexure-9.

6. Mr. P.C. Das, learned counsel for the State, on the other hand, submits that no doubt the petitioner was selected for the post of Assistant Executive Engineer and his name has been recommended by the OPSC and also he was given offer letter with a stipulation that he shall join latest by 20th of April, 2021. Thereafter, the same was extended twice on the request of the petitioner. However, the petitioner could not join within the extended time. In such view of the matter, learned counsel for the State submits that no further extension could be granted to the petitioner. It is further contended that the offer of appointment to the petitioner has already been lapsed. However, Mr. Das, learned counsel for the State does not dispute the GA & PG Department circular vide Memorandum dated 20th of September, 2019 and he further submits that it is only GA & PG Department which is to take a decision where the revival of appointment is beyond the extended time and in such view of the matter, he also contends that the authorities while considering the application of the petitioner under Annexure-1 have not committed any illegality.

7. This Court on perusal of the GA & PG Department circular vide Memorandum dated 20th of September, 2019 under Annexure-9 is of the considered view that under exceptional circumstances the appointment letter which has lapsed with the passage of time, can

very well be revived by the Government in the public interest. Further considering the fact that the post for which name of the petitioner was recommended by the OPSC is still lying vacant and that no recruitment has been made or any advertisement has been issued for the same. This Court is of the considered view that keeping such posts vacant for a long time may be in the larger public interest. Therefore it is open for the opposite parties to consider the case of the petitioner in consultation with GA & PG Department circular vide Memorandum dated 20th of September, 2019 for appointment. In such view of the matter, rejection order under Annexure-1 is hereby set aside and the Opposite Parties are directed to consider the matter afresh in the light of GA & PG Department circular vide Memorandum dated 20th of September, 2019 under Annexure-9 and take a decision within a period of two months from the date of production of certified copy of this order.

8. The petitioner is directed to approach the authority along with certified copy of this order within two weeks from today. In the event it is found that the post is still lying vacant and no further advertisement has been issued and if there is no other legal impediment, the authorities may consider the case of the petitioner for appointment which was earlier recommended by the OPSC for such appointment.

9. With the aforesaid observation/direction, the writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

