

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C(OAC) No.1974 of 2015

Puspanjali Sahoo

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

23.06.2022

Order No

1. 1. This matter is taken up through Hybrid Mode.
2. 2. This application involves a challenge to the illegal action of the Opposite Party No.1 in rejecting the candidature of the Petitioner through the publication of the common merit list (provision) as well as the final list of the candidates for the post of Contractual Hindi Teachers in the Govt. Secondary Schools in 2014-15 involved in an advertisement process indicated herein. 3
3. 3. Background involved in this case is that after completion of the Board of Secondary Education level the Petitioner passed +2 Examination from the Baba Harekrushna Das, Mahavidyalaya under CHSE pattern and then he completed the +3 degree course from the Utkal University. It further disclosed through the application that after achieving the above qualification the Petitioner completed the Rastravasa Shastri Examination under the Odisha Rastravasa Parisad, Jagannath Dham, Puri in the year 2011 securing more than 50% of mark. The Petitioner in the meantime also completed M.A. in Hindi from Allahabad Agricultural Institute in 2014. It is also pleaded that for the Petitioner belonging to S.E.B.C category the

concerned Tahasildar issued S.E.B.C certificate in favour of the Petitioner vide Annexure-4. It appears, pursuant to the resolution dated 27.10.2014 published requiring applications from the candidates for recruitment of Hindi Teachers alongwith other Teaching Staffs in Govt. Secondary Schools, the Petitioner applied for the post of Contractual Hindi Teachers. It appears, the Government therein had prescribed certain qualification criteria for different posts. It is further pleaded that a Common Merit List (Provisional) of the candidates for the post of Contract Teachers in Govt. High Schools 2014-15 was prepared without selecting the name of the Petitioner as appearing at Annexure-6. In furtherance of the publication of the Common Merit List (Provisional), there also appears a final merit list to have been published again ignoring the case of the Petitioner.

4. Mr. Bhanjadeo, learned counsel for the Petitioner taking this Court to the advertisement issued for the recruitment purpose and specifically drawing the attention of this Court to the qualification criteria at paragraph No.3(f) of the resolution vide Annexure-4, attempted to establish that in spite of the Petitioner having the required qualification, the case of the Petitioner has been ignored in the selection process. In the process Mr. Bhanjadeo, learned counsel for the Petitioner sought for intervention of this Court in the merit list prepared for the recruitment in question and for issuing appropriate direction for appointment of the Petitioner in the post of Contractual Hindi Teachers in Government Secondary Schools pursuant to the resolution in 2014-15.

5. Pursuant to issuance of notice the Opposite Party No.3 in filing a counter affidavit attempted to justify the action of the Opposite Parties in not selecting the Petitioner in the recruitment process in question. Mr. Mishra, learned Standing counsel for the School & Mass Education Department drawing the attention of this Court to the pleadings made in paragraph nos.6, 7 & 8 of the counter affidavit

contended that for the Petitioner did not have the Hindi training qualification such as Hindi Sikshya Parangata or B.H.ED or B.Ed in Hindi, the authorities are justified in not selecting the case of the Petitioner. In the above premises Mr. Mishra, learned Standing Counsel for the School & Mass Education Department requested this Court for dismissal of the writ petition.

6. Considering the rival contentions of the parties, this Court finds, the moot question remains to be decided in this matter is, if the Petitioner meets the required qualification criteria for being selected in the post of Contractual Hindi Teacher in the Government Schools in 2014-15 pursuant to the resolution vide Annexure-4, whether the authorities are justified in not selecting the case Petitioner?. As it appears, both the parties rely on the same resolution vide Annexure-4 prescribing qualification criteria for the selection/ eligibility purpose. The provision at clause 3(f) of the resolution being relevant for adjudication of the question involved herein, this Court here likes to take note of the same, which reads as follows:

“(f) Hindi Teacher – Bachelor’s degree from a recognized University with Hindi as one of the elective subject with minimum 50% marks in aggregate (45% for SC/ST/PH/OBC/SEBC candidates) or with Rastrabhasa Ratna from Rastrabhasa Prachar Samiti, Wardha or with Sastri from Orissa RAstrabhasa Parisada, Puri or with Snataka (Acquired by June-2005, the date up to which the temporary recognition has been granted) from Hindi Sikshaya Samiti, Orissa, Cuttack or an equivalent degree from a recognized institution with at least 50% marks in aggregate (45% for SC/ST/PH/OBC/SEBC candidates) and Hindi Sikshyan Parangat from Kendriya Hindi Sansthan, Agra/B.H.Ed. (a course prescribed by NCTE) from a Institution recognized by NCTE and affiliated to a recognized university / B.Ed. in Hindi (a course prescribed by NCTE) from Dakhin Bharat Hindi Prachar Sabha, Madras, a institution recognized by NCTE and affiliated to a recognized university.

OR

Bachelor's degree with Hindi as one of the optional / Hons. Subject with minimum 50% of marks in aggregate (45% for SC / ST / PH / OBC / SEBC candidates) and M.A. in Hindi with minimum 50% marks in aggregate from a recognized University. (The untrained candidates shall have to undergo required training within the timeline as prescribed by Govt.).

7. On reading of the aforesaid clear provision made in the resolution to make a candidate eligible to apply for the post of Contractual Hindi Teacher in the Govt. Secondary Schools in 2014-15, this Court finds, there is prescription of so many qualifications prescribed therein for one becoming eligible to apply against the post of Contractual Hindi Teacher and one of such qualification is, one must be having Bachelor's degree from a recognized University with Hindi as one of the elective subject with minimum 50% marks in aggregate and in case of SC/ST/PH/OBC/S.E.B.C minimum 45% marks in aggregate or with Rastrabhasa Shastri Examination from The Odisha Rastravasa Parisad Jagannath Dham, Puri. This being the required qualification; on reading of the counter affidavit this Court finds, there is no dispute as to the Petitioner having a Bachelor's degree from a recognized university for Hindi Teacher by way of Rastrabhasa Shastri Examination from The Odisha Rastravasa Parisad Jagannath Dham, Puri and on entire reading of the clause 3(f) this Court nowhere finds the requirement of Hindi training qualification for Hindi Teacher. Further for the bracket portion below the condition 3(f) providing opportunity to provide training after being eligible/qualified, the stand of the department that there was requirement for training, remains unfounded. In such view of the matter, this Court finds, the stand taken by the contesting Opposite Parties remains wholly contrary to the condition at clause 3(f) in the resolution vide Annexure-4. It is, in this view of the matter, this Court finds, the ground of not selecting the Petitioner is not germane to the condition imposed in the resolution vide Annexure-4. As a consequence this Court finds, not selecting the Petitioner for the post of Contractual Hindi Teacher pursuant to the advertisement in question is illegal. Since the Petitioner was fulfilling

all the required qualification for the post of Contractual Hindi Teacher in Government Schools in 2014-15 pursuant to the resolution vide Annexure-4, this Court directs, in the event the Petitioner fulfills other conditions, the competent authority to draw a fresh select list of Contractual Hindi Teacher in Government Schools pursuant to the advertisement in question forthwith, preferably within a period one month and in the event the name of the Petitioner finds place within the required candidate, the Petitioner shall be appointed against the said post. In the event there is possibility of disturbing any of the selected person, such person may be provided with opportunity. For the Petitioner going to get the benefit through this judgment and as the litigation process involving the Petitioner continued for over six years, this Court further directs, in the event the Petitioner gets appointment on re-drawl of fresh selection list, the Petitioner be treated to have been recruited in the post of Contractual Hindi Teacher in the year 2014-15 and so far as arrear is concerned, it shall be calculated notionally. However, the other entitlements provided to the similarly situated persons during this period shall be calculated for the purpose of fixation of scale of pay of the Petitioner presently and this period will also be calculated for the purpose of pensionary benefit, if any.

8. The writ petition succeeds to the extent indicated hereinabove.
No cost.

(Biraja Prasanna Satapathy)
Judge

Subrat