

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3514 of 2014

An application under Section 19 of the State Administrative Tribunal's Act, 1985.

.....

Janmejay Sahu

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner : M/s. Mr. K.P.Mishra,
S.Mohapatra, T.P.Tripathy &
L.P.Dwivedy.

For Opp. Parties : M/s. M.K.Balabantaray,
Addl. Standing Counsel.
M/s.S.B.Jena, Adv. for
Opp.Party No.2.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing:02.05.2022 and Date of Order: 09.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. L.P.Dwivedy, learned counsel for the Petitioner, Mr. M.K. Balabantaray, learned counsel for the State-Opposite Party No.1 and Mr. S.B.Jena, learned counsel appearing for Opposite Party No.2.
3. The Petitioner has filed the present Writ Petition with

the following reliefs:-

(i) Quash the order of rejection at Sl.No.8 under Annexure-8 and thereby accept the Application Form of the applicant for the post of Lecturer in Physics;

(ii) Pass such other order (s) or issue direction (s) as may be deemed fit and proper in the bona fide interest of justice”.

4. It is submitted by Mr. Dwivedy, learned counsel for the Petitioner that in spite of his eligibility, when the application submitted by the Petitioner to take the test pursuant to the advertisement issued by the Odisha Public Service Commission vide Advertisement No.20 of 2013-14 under Annexure-6 was rejected vide notice dated 21.10.2014 under Annexure-8, the Petitioner challenging the same filed the present Writ Petition.

5. It is submitted that pursuant to the advertisement issued under Annexure-6, the Petitioner made his application for the post of Lecturer in Physics.

6. It is also submitted that for the post of Lecturer in Physics indicated at Sl.No.14 of Clause-4 of the said advertisement, the prescribed qualification was First Class Master Degree or equivalent in Physics.

7. It is submitted that the Petitioner possess qualification of Master of Science (Technology) in Engineering Physics under Annexure-3 from NIT, Warangal.

8. It is accordingly submitted that the said qualification being equivalent to the prescribed qualification for the post of Lecturer in Physics under Annexure-6, the rejection of the Petitioner's candidature under Annexure-8 is illegal.

9. It is also submitted that learned Tribunal while issuing notice of the matter vide order dated 07.11.2014, directed the Commission to allow the Petitioner to appear the interview but with the condition that his result should not be published without leave of this Court and the same be kept in a sealed cover.

10. It is also submitted that pursuant to the said order passed on 07.11.2014, the Petitioner was allowed to take the test. But his result is not being published due to the rider given in the said order.

11. It is accordingly submitted that in view of such qualification possessed by the Petitioner as reflected under Annexure-3, the rejection of the Petitioner's candidature needs interference by this Court.

12. Mr. Jena, learned counsel for the Commission on the other hand made his submission basing on the counter filed by the said Opposite Party No.2.

13. It is submitted by Mr. Jena, learned counsel appearing for the Opposite Party No.2 that the qualification obtained by the Petitioner i.e. Master Degree (Technology) in Engineering Physics from National Institute of Technology, Warangal is neither the prescribed qualification nor it is

equivalent to the qualification prescribed in the advertisement in respect of the post of Lecturer in Physics.

14. Accordingly, it is submitted that the Petitioner's candidature has been rightly rejected as the said qualification is not equivalent to the prescribed qualification so desired by the Commission in the advertisement under Annexure-6. Even though the counter filed by the Opposite Party No.2 was received by the Petitioner on 09.12.2014, but no rejoinder affidavit has been filed, disputing the stand taken by the Commission regarding equivalency of the Petitioner's qualification with the prescribed qualification. But it is only submitted that the qualification so possessed by the Petitioner is equivalent to the qualification prescribed in the advertisement under Annexure-6.

15. Heard learned counsel for the Parties.

16. From the submissions made by the respective counsels, this Court is of the opinion that deciding the question equivalency of a qualification does not come within the domain of this Court and the Recruiting Authority is the Competent Authority to take a call on the same. In the counter, it has been specifically pleaded that the qualification of the Petitioner is not equivalent to the prescribed qualification as per the advertisement issued under Annexure-6.

17. Since neither any reply has been filed disputing such stand nor by enclosing documents showing equivalency of

the said qualification with the prescribed qualification, this Court is of the view that the Petitioner's qualification is not equivalent to the prescribed qualification and his candidature has been rightly rejected under Annexure-8.

18. Accordingly, this Court is not inclined to interfere with the matter and dismiss the Writ Petition.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 9th of May, 2022/Subrat

