

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 3835 of 2014

Narayan Khamari

....

Petitioner

Mr. Subhasish Satapathy on behalf
of Mr. B.K. Nayak, Advocate

-versus-

State of Odisha & Others

....

Opp. Parties

Mr. L. Samantaray, AGA

CORAM:

JUSTICE M.S. SAHOO

ORDER

19.12.2022

Hybrid Mode

Order No.

03.

1. When the matter was last taken up on 10.11.2022,
the following order was passed:-

“1. This matter is taken up through hybrid mode.

2. When the matter was earlier taken up on 29.04.2022 after considering the matter in some detail and hearing the learned counsel for the State, the following order was passed :

“2. The writ petition has been renumbered and registered before this Court on 13.12.2021 after being transferred, upon abolition of Odisha Administrative Tribunal, Cuttack Bench, Cuttack.

3. On perusal of the available order-sheets of the learned Tribunal, it is found that the matter was never taken up/pursued after 17.12.2017.

4. The Original Application was filed in the year 2014 by the petitioner, who was aged about 51 years, working as Forest Guard, Lathore Range under Divisional Forest Officer, Bolangir Forest Division, seeking a direction to the authority to grant promotion to the applicant-petitioner to the

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rank of Forester alleging that the respondents-opposite party nos.4 & 5 though juniors, have been granted promotion.

5. Learned Standing Counsel referring to the averments made in the writ petition as well as counter filed by the Divisional Forest Officer, Bolangir, opposite party no.3, submits that the respondent-opposite party nos.4 & 5 joined in their service as Forest Guard on 25.04.1985 and 27.04.1985 whereas the petitioner never started his service as a Forest Guard, rather he joined as Chowkidar on 24.04.1985.

6. It is submitted by the learned Standing Counsel that the initial entry of the petitioner to service was a Grade-IV post whereas opposite party nos.4 and 5 joined in the Grade-III post.

7. It is further submitted that during the pendency of the Original Application the petitioner would have got subsequent promotion as he is entitled to as per the relevant Service Rules.

7. On perusal of the rejoinder filed by the petitioner, it is indicated that the fact of the petitioner joining as Chowkidar on 25.04.1985 is also admitted at paragraph-3. The further contention raised in the rejoinder is that though the petitioner appeared at the examination for Forest Guard and qualified, he was appointed as Chowkidar.

8. It is submitted by the learned Standing Counsel that though the petitioner admits that he was appointed as Chowkidar in 1985, he never raised any grievance and in 2014 when the O.A. was filed after lapse of twenty nine years, the respective rights of the opposite parties as well as the petitioner had crystallized and the matter cannot be re-opened.

9. The further submission of the learned Standing Counsel is that after getting promotion to the post of Forest Guard also the petitioner had not challenged his inter se position quo of opp.party nos.4 & 5.

10. *Having heard the learned Standing Counsel, to grant another opportunity to the petitioner, list on 20.07.2022.”*

3. *Mr. Satapathy, learned counsel for the petitioner submits that he may be accommodated to obtain up-to-date instruction regarding the present status of the service of the petitioner.*

4. *Learned Government Advocate, SAT reiterates the submission on behalf of the opposite parties-State as noted in the order dated 29.04.2022 and submits that nothing would survive at present for adjudication considering the nature of grievance raised in the writ petition, i.e., grant of promotion to the post of Forest Guard to the petitioner from the post of Chowkidar.*

5. *Having heard learned counsel for the parties, to grant another opportunity to the petitioner, list on 28.11.2022.”*

2. Learned counsel on behalf of the petitioner submits that he has no up-to-date instruction to prosecute the matter at present on behalf of the petitioner.

3. Learned Addl. Govt. Advocate reiterates his submissions as noted in the earlier orders.

4. Having heard learned counsel for the parties, the writ petition is disposed of granting liberty to the petitioner to revive the same for any surviving cause of action.

(M.S. Sahoo)
Judge