

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.3094 of 2017

Pabitra Behera

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

18.10.2022

Order No

- 08.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. S.C. Mekap, learned counsel for the Petitioner and Mr. N.N. Satapathy, learned Standing Counsel appearing for the Opp. Parties.
3. The present writ Petition has been filed challenging the office order dtd.21.09.2017 passed by the Collector, Anugul-O.P. No. 3 under Annexure-8.
4. It is submitted that pursuant to the advertisement issued during the year 2014-15 for engagement of contract teacher in Govt. High School, the Petitioner made his application for the post of Hindi Teacher.
5. It is submitted that after due scrutiny Petitioner's name was included in the draft list of applicants eligible for appointment in respect of Anugul district issued by the Opp. Party No. 2 under Annexure-3. It is also submitted that the Petitioner subsequently was issued with the e-notice to appear before the Opp. Party No. 4

for verification of his document in between the period from 06.02.2016 to 10.02.2016.

6. It is submitted that since the Petitioner got married on 06.02.2016 the Petitioner could not know about the e-notice issued in the OPEPA website on 04.02.2016 and accordingly could not appear on the date fixed for getting his documents verified and consequential engagement as Hindi Teacher. It is submitted that subsequently when the Petitioner appeared before the O.P. No. 4 to get his document verified the Petitioner was not allowed to do so. Accordingly, the Petitioner approached the learned Tribunal in O.A. No.814(C) of 2017. It is submitted that learned Tribunal vide order dtd.21.07.2017 disposed of the Original Application with a direction on the O.P. No. 3 to take a decision on the Petitioner's claim.

7. It is submitted that O.P. No. 3 without proper appreciation of the grounds taken in the Original Application and the ground that the Petitioner got married on 06.02.2016 and accordingly could not know about the e-notice issued on 04.02.2016, rejected the Petitioner's claim vide the impugned order dtd.21.10.2017 under Annexure-8. It is submitted that since the Petitioner for his genuine difficulty could not appear during the period from 06.02.2016 to 10.02.2016 to get his documents verified, the Opp. Party Nos. 3 & 4 should have allowed the said claim instead of rejecting the same vide the impugned order at Annexure-8. It is also submitted that though in the impugned order a ground has been taken that the Petitioner does not have the requisite qualification, but Mr. Mekap, learned counsel for the Petitioner submitted that as per the resolution issued by the Govt. on 27.10.2014, the Petitioner has got

the requisite qualification as he has passed the Shastri from Odisha Rashtra Bhasha Parishad, Puri.

8. It is also submitted that at present there are no. of vacancies available in the district of Anugul and the Petitioner can very well be accommodated as a Hindi Teacher as against the said vacancies.

9. Mr. Satapathy, learned Standing Counsel on the other hand made his submission basing on the stand taken in the counter affidavit. It is submitted that since the Petitioner did not appear on the date fixed to get his documents verified, Petitioner's claim has been rightly rejected vide the impugned order.

10. However, with regard to the stand taken in the impugned order that the Petitioner does not have the requisite qualification. Mr. Satapathy, learned Standing Counsel submitted that the said fact can be redecided by the O.P. No. 3 taking into account the resolution issued by the Govt. on 27.10.2014.

11. Having heard learned counsel for the Parties and taking into account the fact that the Petitioner because of his marriage on 06.02.2016 could not come across the e-notice issued on 04.02.2016 and could not appear before the Authority to get his documents verified, this Court is of the view that the O.P. No. 3 on being directed by the learned Tribunal should have allowed the said claim. This Court is also of the view that the stand taken by the O.P. No. 3 that the Petitioner does not have the requisite qualification is not correct in view of the qualification prescribed for the post of Hindi Teacher in the resolution dtd.27.10.2014 for the Govt. in the Department of School & Mass Education.

12. Taking into account the submission made by Mr. Mekap that no. of vacancies are available at present and the Petitioner can very well be accommodated in one such post, this Court is inclined to quash the office order dtd.21.09.2017 under Annexure-8. While quashing the same, this Court directs the O.P. No. 3 to allow the Petitioner to get the documents verified within a period of one month from the date of receipt of this order.

13. If on such verification it is found that the Petitioner possesses the requisite qualification in accordance with the qualification prescribed in the resolution dtd.27.10.2014 and if vacancies are still available in the district of Anugul as against the post of Hindi Teacher, necessary steps be taken to provide the appointment to the Petitioner as against any such vacant post within a further period of two (2) months from the date of verification of the documents.

14. The writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha