

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) 3641 OF 2013

Alok Kumar Jena

Petitioner

Mr. M.K.Dash, Advocate

-versus-

State of Odisha and others ***Opposite Parties***

Mr. T.K.Praharaj, SC OPs.1 to 4

CORAM:

JUSTICE M.S.SAHOO

ORDER

25.3.2022

Order No.

2. 1. This matter is taken up by hybrid mode.
2. Hearing was taken up on 25.2.2022 and the following order was passed :

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

The Original Application having been transferred from the learned Orissa Administrative Tribunal, Cuttack Bench, Cuttack upon its abolition, has been registered before this Court on 3.12.2021.

2. On perusal of the available order sheets of the learned Tribunal it is indicated that the matter was never taken up after 12.3.2014.

3. The Original Application was filed before the learned Tribunal in the year 2013 when the applicant was 22 years of age challenging his non-selection for the post of constable in the district of Jajpur pursuant

to the advertisement dated 25.6.2013 (Annexure-1) issued by the State Selection Board, Odisha Police, Cuttack.

4. The petitioner's case in short as submitted by the learned counsel for the petitioner is that as per paragraph-11 of the advertisement in Odia, dated 25.6.2013 (Annexure-1), pertaining to the educational qualification, he is to be treated as "kha" having secured 311 marks out of 600 (52%) in +2 Arts Ex-Regular examination conducted by Council of Higher Secondary Education as per certificate dated 30.5.2012 (at p.29 of the petition).

5. It is submitted by learned counsel for the petitioner that he got admitted to the course in 2008 and instead of completing the two year course in 2010, he could pass Ex-Regular Examination in the first attempt in the year 2012. Therefore, the noting in paragraph-11 in Odia "mark will be given to the candidates who have passed in first attempt has to be interpreted to the effect that a student who has passed as Ex-Regular candidate, clears examination beyond two years of the Higher Secondary (+2) course, but in first attempt should be given '4' marks as per 'kha'.

6. It is further submitted that the petitioner could not appear as a regular candidate within the duration of the course for “illness.”

7. Learned AGA submits that the petitioner on his own showing, had registered with the Council of Higher Secondary Education in the year 2008 by registration No.022591/2008 and passed +2 Arts, as Ex-Regular candidate in the year 2012.

It is further submitted that paragraph-11 at page 18 (Annexure-1) is very clear that in +2 Examination, the marks are given starting with ‘1’ for 41% or above, ‘4’ for 51% or above and ‘7’ for 61% or above. The clause ‘Gha’ provides that for compartmental/supplementary examinations, “candidate has to secure more than 41% of marks for getting any number. The note at paragraph-11 is clear to the extent that the marks will be given for passing +2 examination only for a candidate who has cleared the examination at the first attempt.

8. It is submitted by learned AGA that the candidates who have cleared the examination being “Regular” will be discriminated if the same mark is given to the present petitioner who registered in the

year 2008 and cleared the examination in 2012 as Ex-Regular as per the certificate issued by the CHSE. Learned AGA further submits that the recruitment was conducted in 2013 and due to long lapse of time of nine years, the rights of the respective selected candidates have crystallised and nothing would survive for adjudication as of now.

9. Learned counsel for the petitioner submits that he may be accommodated for obtaining up-to-date instruction.

10. List this matter on 25.3.2022, as prayed for.”

3. It is submitted by learned counsel for the petitioner on instruction that the petitioner does not want to press the present writ petition. Accordingly, the same is disposed of as not pressed.

(M.S.Sahoo)
Judge

dutta