

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 1430 of 2011

Susanta Kumar Sahoo

....

Petitioner

Mr. N. Lenka, Advocate

-Versus -

State of Orissa and others

....

Opposite Parties

Mr. H.K. Panigrahi,

Addl. Standing Counsel

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

17.02.2022

Order No.

01.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned Addl. Standing Counsel for the State.
3. The petitioner has filed the present writ application seeking the following relief(s):

“That, in view of the facts stated above the applicant prays for the following relief-

- i) To quash the advertisement vide Annexure-6 so far as Jagatsingpur District is concerned.*
- ii) That, the action of the respondent in filling up 5 posts of Constable posts reserved for Home guard by direct recruitment pursuant to the advertisement vide Annexure-1, be declared as illegal.*
- iii) To direct the respondents to select and appoint the applicant as constable under Home Guard Category w.e.f. the date when others have got appointment in pursuant to selection under Annexure-5 with all benefits.*
- iv) To direct the respondents to fill up remaining 5 posts reserved for home guards from selected Home Guard candidates.*

v) *And pass such other order/orders as may be deemed fit and proper for the interest of justice."*

4. The case of the petitioner is that he was engaged as Home Guard in the office of the opposite party no.4. Pursuant to an advertisement issued on 04.08.2008 for recruitment of constables, the petitioner applied as 10% of the post advertised were reserved for Home Guards. The petitioner came out successful in the physical test as also in the written test and his name being placed in the merit list, he was asked to appear in the personality test. The petitioner claims to have performed very well in the personality test and was therefore, legitimately expecting to be selected for the post. In fact, the petitioner's name also found place in the result published in the notice board of opposite party no.4 under the SEBC category of candidates under the Home Guard quota. It is the further case of the petitioner that out of nine vacancies, nine candidates including the petitioner were selected against different categories and as such, he was legitimately expecting for the appointment order to be issued in his favour. However, to his surprise, his name did not find place in the final merit list, which was published showing four candidates to have been selected against nine vacancies with the other five vacancies being filled up by other candidates. According to the petitioner, the Home Guard quota being nine, two candidates should have been selected from General Category, four candidates

from SEBC category including the petitioner and three from SC category. But in the final merit list, while two candidates from general category and one candidate from SC category was selected, only one candidate was selected from SEBC category. While the matter stood thus, another advertisement was issued for filling up of 1878 posts of constables including 86 posts of Jagatsinghpur District vide Annexure-6. Claiming that the said advertisement has put him to further suffering by considering filling up of vacant posts without considering the case of the petitioner, he has filed the instant application claiming the reliefs as quoted hereinbefore.

5. A counter affidavit has been filed by all the opposite parties indicating that the total number of vacancies in Jagatsinghpur District at the relevant time was 94, the break up of which was - Unreserved -47 (50%), ST-21 (22.5%), SC 15 (16.25%) and SEBC 11 (11.25 %). It is further averred that there shall be 10% reservation in the rank of constable for Home Guards in each recruitment year and they will be eligible against the reserved vacancies under the reserved category, to which they belong. As such, 10% of such vacancies are UR-5, ST-2, SC-1 and SEBC-1. It is further stated that out of the one post reserved for SEBC, the candidate who was selected against such vacancy, namely, Niranjana Sahoo, secured 49 marks, whereas the petitioner secured only 34.5 marks and therefore, said Niranjana Sahoo

was selected for the post.

6. Heard Mr. N. Lenka, learned counsel for the petitioner and Mr. H.K. Panigrahi, learned Addl. Standing Counsel for the State.

7. It appears that the State Government vide Resolution dated 07.10.2006 made the Orissa Police Service (Method of Recruitment and Conditions of Service of Constables) Order, 2006 (in short "Order, 2006). Clause- 5(3) of the Order, 2006 provides the eligibility criteria for consideration of Home Guards for the post of Constables. Further, Clause -8(3) provides for 10% reservation of notified vacancies in the rank of constables in each district. Clause-(9) and (10) relate to the advertisement of vacancies and recruitment process. The provisional list of marks secured by the candidates in the recruitment test of constables held in Jagatsinghpur District from 01.09.2008 to 14.09.2008 in alphabetical order is enclosed to the counter affidavit as Annexure-B. It is, however, stated that the name of the petitioner, i.e., Susanta Kumar Sahoo, finds placed at serial no. 518 with the total marks secured by him being 34.5. In so far as the selected candidate, namely, Niranjan Sahoo is concerned, his name finds place at serial no.256 of the list with the mark secured being 49.

8. Considering the submissions made and the materials placed before this Court as discussed in the preceding paragraphs, it is evident that the contentions raised by the

petitioner are untenable. Firstly, the contention that four posts should have been reserved for candidates of SEBC category is without any basis and contrary to the Order, 2006. Secondly, the petitioner had duly appeared in the required selection process and could score only 34.5% marks as against the selected candidate, who secured 14.5 marks more than him. Therefore, there is no reason to hold that the selection process was in any manner illegal or not in accordance with the provisions of Order, 2006 so as to warrant interference. In short, the petitioner having secured less marks than the selected candidate, he cannot lay any claim whatsoever for the post in question. As such, it must be held that the petitioner is not entitled to the relief claimed by him in the present application.

9. For the forgoing reasons therefore, this court does not find any reason to interfere, for which the writ petition is dismissed.

10. Issue urgent certified copy as per rules.

(Sashikanta Mishra)
Judge

A.K. Rana