

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.781 of 2017

Parsuram Behera

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

21.12.2022

Order No

06. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Pursuant to the order passed by this Court on 21.09.2022 an affidavit was filed by the O.P. No. 4 in Court today. The same be kept on record.

3. Heard Mr. L.K. Mohanty, learned counsel for the Petitioner and Mr. D.K. Mohanty, learned Addl. Standing Counsel appearing for the Opp. Parties.

4. The present writ petition has been filed challenging the order dtd.04.03.2017 passed by the O.P. No. 4 under Annexure-8. Vide the said order the prayer of the Petitioner to get the benefit of RACP w.e.f.01.01.2013 was rejected only on the ground that the Petitioner since has not completed the Forester Training which is a criteria for promotion, the benefit of RACP cannot be extended in his favour.

5. It is the contention of the learned counsel for the Petitioner that after his joining on promotion as a Forester, the Petitioner since was

never deputed to undergo the Forester training, no fault lies with the Petitioner and accordingly, he cannot be denied the benefit of RACP on the ground that he has not completed the said training.

6. Taking into account the said stand of the Petitioner as taken in the writ petition, this Court vide order dtd.21.09.2022 passed the following order:-

“2. Heard Mr. L.K. Mohanty, learned counsel for the petitioner and Mr. Panigrahi, learned A.S.C.

3. Even though the pleadings of the matter has been completed, but this Court after going through the same found that the petitioner after being given promotion to the rank of Forester vide office order dated 24.4.2008, no document has been filed showing the petitioner is required to undergo forester training.

4. In that view of the matter, this Court directs Mr. Panigrahi, learned A.S.C to produce any such order whereby the petitioner has been sponsored to undergo the forester training after his promotion vide office order dated 24.4.2008. Such instruction in shape of affidavit shall be provided to the Court by the next date.

5. List this matter on 21st October, 2022.”

7. Pursuant to the said order an affidavit was filed in Court today by O.P. No. 4. In the said affidavit in Para 1, 2 & 3 it has been submitted as follows:-

“1. That this Hon'ble Court vide order dtd.21.09.2022 has directed to file an affidavit with regard to produce any such order whereby the petitioner has been sponsored to undergo the Forester training after his promotion vide order dtd.24.04.2008. A counter affidavit has been filed by the then Divisional Forest Officer, Sunabeda Wildlife Division, Nuapada on 01.05.2018, wherein it is stated that after due course of time vide order no.92 dtd.24.04.2008, the petitioner joined as Forester on 25.04.2009. Thereafter the Opp. party no.4 vide letter no.904, dtd.02.05.2009 recommended the name of the petitioner to the Opp. party

No.3, Regional Chief Conservator of Forest, Bhawanipatna Circle, Bhawanipatna, for training with a copy to Addl. Principal Chief Conservator of Forest, Bhubaneswar.

2. That the Opp. party No.3 on obtaining the final selection list made by the Principal Chief Conservator of Forest, the Opp. party No.2 communicated the same to Opp. party No.4 vide his memo no.2535(5) dated 10.06.2009 to send selected forester for training. Since the name of the petitioner was not found place in the said training list, he could not send for necessary training.

3. That after the order was passed by this Hon'ble Court the deponent went to the office of the Principal Chief Conservator of Forest, Opp. party No.2 to ascertain the reason of non inclusion the name of the petitioner in the training list also to get the order where the petitioner was directed to undergo training. Despite all endeavours since it is a year old matter no such record pertaining to petitioner's training was found in the office of the Principal Chief Conservator of Forest as to ascertain the reason of non inclusion of the name of the petitioner."

8. In view of the stand taken by the O.P. No. 4 in the affidavit, this Court finds that the Petitioner has no fault for not undergoing the Forester training. Therefore, on the ground of non-completion of the training the benefit of RACP cannot be denied to him. Hence this Court is inclined to quash the order at Annexure-8. While quashing the same, this Court directs O.P. No. 4 to extend the benefit of RACP as due and admissible in favour of the Petitioner. Such an exercise shall be undertaken and completed within a period of three (3) months from the date of receipt of this order. Financial benefit accruing there-upon shall also be released within the aforesaid period.

9. The writ petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha