

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33489 of 2022

Nilamadhab Barik

....

Petitioner

Ms. B.K. Pattanaik, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. B.P. Tripathy, AGA

**CORAM:
JUSTICE A.K. MOHAPATRA**

ORDER

08.12.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Government Advocate appearing for the State-Opposite Parties. Perused the writ petition and documents annexed therewith.
3. The present writ petition has been filed by the Petitioners with the following prayers:-

“It is therefore humbly prayed that this Hon’ble Court may graciously be pleased to admit the case, call for the records and after hearing both the parties pass the following reliefs;

- i. To declare the promotion of opposite party no.3 to 4 to the rank of Revenue Inspector as illegal.*
- ii. To direct the Opp. Parties to promote the petitioner to the rank of Revenue Inspector with effect from the date when opposite party no.3 to 4 are promoted with all service financial and consequential benefits.*

And pass such other order/orders as may be deemed fit and proper for the interests of justice.”

4. It is submitted by learned counsel for the Petitioner that

although the Petitioner was eligible for promotion and there are vacancies available in the posts, his case was not considered for promotion to the post of Revenue Inspector from the post of Assistant Revenue Inspector. Aggrieved by such conduct of the departmental authorities, the Petitioner approached the departmental authorities by filing a representation dated 9.11.2022 before the Opposite Party No.2-the Collector-cum-District Magistrate, Bhadrak. Considering the case of the Petitioner, a DPC was convened. In the first DPC, the case of the Petitioner was not considered. Thereafter, the case of the Petitioner was also placed before the review DPC. Thereafter, the Petitioner approached the authority with a grievance that persons, who are not eligible, have been given promotion to the post of Revenue Inspector ignoring the claim of the Petitioner.

5. Accordingly, a review DPC was convened and in the review DPC, the case of the Petitioner was considered. In the concluding paragraph of the minutes of the review DPC meeting, which has been filed under Annexure-7, it has been reflected that “the DPC perused the representation submitted by Sri Nilamadhab Barik, ARI (the Petitioner) and found that his case was not considered for promotion to the post of Revenue Inspector in the DPC meeting as he is junior in the Gradation list and there was not enough vacancy under UR category to consider his case. Hence, the DPC did not consider his prayer as the same is devoid of merit.”

6. It is submitted by the learned counsel for the Petitioner that many persons who were not eligible for such promotion have been considered for promotion by the DPC and, accordingly, they have been given promotion. She further contends that although the Petitioner is eligible, he has been discriminated and his case has not

been considered in the DPC meeting.

7. Mr. B.P. Tripathy learned Additional Government Advocate appearing for the State-Opposite Parties, on the other hand, submits that the persons whose cases have been considered are junior to the Petitioner. So far the eligibility aspect is concerned, it is up to the DPC to consider the same in accordance with the rules. So far present Petitioner is concerned, it is submitted that the minutes of the review DPC has clearly mentioned the ground on which the case of the Petitioner was not considered. In such view of the matter, he further submits that let the Petitioner approach the authority and in the event any vacancy in post is available in UR Category, then the case of the Petitioner shall be considered in accordance with rules and in the order of seniority.

8. Learned counsel for the Petitioner at this juncture submits that the post of Revenue Inspector in UR Category is lying vacant. Therefore, the authorities may be directed to consider the case of the Petitioner for appointment to the said post strictly in accordance with the provision of the rules.

9. Considering the submission made by the learned counsel for both the parties and upon taking into consideration the factual background of the present case and also upon perusal of the minutes of the review DPC dated 7.3.2022, this Court disposes of this writ petition by directing the Opposite Party No.2-Collector, Bhadrak to consider the case of the Petitioner afresh and in the event any vacancy is there in the post of Revenue Inspector in UR Category, the case of the Petitioner be considered in accordance with rules and the order of seniority within a period of two months from the date of production of certified copy of this order. The decision so taken shall

be communicated to the Petitioner within two weeks thereafter. It is needless to mention here that in the event vacancies are there under the UR Category and the Petitioner is otherwise eligible, then the authorities shall do well to promote the Petitioner to the post of Revenue Inspector within a month thereafter.

10. Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge

Debasis

