

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33869 of 2022

Sri Abinash Naidu

....

Petitioner

Mr. D. Hembram, Advocate

-versus-

***Chief Construction Engineer,
Rural Works Circle, Keonjhar
and others***

....

Opposite Parties

Mr. P.K. Rout, AGA

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

**ORDER
13.12.2022**

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.
3. This writ petition has been filed by the Petitioner with a prayer to quash the order dated 07.12.2022 issued by the Opposite Party No.1-Chief Construction Engineer, R.W. Circle, Keonjhar under Annexure-B to the writ petition.
4. It is submitted by the learned counsel for the Petitioner that although the Petitioner is senior to the private Opposite Parties No.3, 4 and 5, the Opposite Party No.1-Chief Construction Engineer, R.W. Circle, Keonjhar without considering the case of the present Petitioner have given promotion to the Opposite Parties No.3, 4 and 5. It is further contended that on the basis of gradation list prepared by Opposite Party No.1, the Petitioner name appears at Serial No.4 of the gradation list under Annexure-A. So far Opposite Parties No.3, 4

and 5 is concerned, their names appear at Serial No.9, 10 and 11. Therefore, it is submitted that admittedly the Petitioner is senior to Opposite Parties No.4, 5 and 6. It is further contended that the Opposite Parties No.3, 4 and 5 are belonged to UR Category and the Petitioner also belonged to the UR Category and his date of entry in the Government service is 31.10.2008 which is much prior to the other three persons whose case have been considered and they have been given promotion under Annexure-B. Therefore, learned counsel for the Petitioner submits that the conduct of the Opposite Party No.1 in giving promotion to the Opposite Parties No.3, 4 and 5 ignoring the Petitioner, is arbitrary.

5. Learned counsel for the State, on the other hand, submits that on perusal of Annexure-8, it appears that Opposite Parties No.3 and 4 have been given promotion pursuant to the order passed by this Court in W.P.(C) No.40088 of 2021. He further contends that the Petitioner has not approached the Departmental Authority first before approaching this Court. Therefore, he prays that the Petitioner may be directed to approach the authority by filing a fresh representation and in the event such representation is filed, the authority shall consider his case in accordance with law.

6. Having heard the learned counsel for the parties and taking into consideration the fact that the Opposite Party No.3, 4 and 5 are admittedly junior to the Petitioner as has been shown in the gradation list under Annexure-A, this Court disposes of the writ petition by directing the Petitioner to approach the Opposite Party No.1 by filing a fresh representation taking therein all the grounds available in his favour within a period of two weeks from the date of production of certified copy of this order and in the event such representation is

filed, the Opposite Party No.1 shall consider and dispose of the same within four weeks from the date of filing such representation keeping in view of the fact that the Petitioner is admittedly senior to the private Opposite Parties No.3, 4 and 5 and, accordingly, give promotion to the Petitioner, if there is no legal impediment. Further, it is directed that the seniority of the Petitioner shall also be maintained in the promotional post as per the gradation list.

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



(*A.K. Mohapatra*)
Judge

Debasis