



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No. 23839 of 2025

In the matter of an application under Articles 226 & 227 of the Constitution of India.

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Gadadhar Mohapatra & Ors. ***Petitioners***

-versus-

State of Odisha & Ors. *Opposite Parties*

W.P.(C) No. 9082 of 2024

Pradeep Kumar Mishra & Ors. ***Petitioners***

-versus-

State of Odisha & Ors. *Opposite Parties*

For Petitioners : Mr. M.K. Khuntia, Advocate
(in W.P.(C) No. 23839 of 2025)
Mr. J. Pal, Advocate
(in W.P.(C) No. 9082 of 2024)

For Opp. Parties : Mr. P.K. Parhi, DSGI
along with
Mr. J.N. Panda, CGC

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 28.11.2025 & Date of Judgment: 28.11.2025

Biraja Prasanna Satapathy, J.

1. This matter is taken up through hybrid mode.



2. Heard learned counsel appearing for the Parties.

3. Since the issue involved in both the writ petitions are interrelated, both were heard analogously and disposed of by the present common order.

4. W.P.(C) No. 23839 of 2025 has been filed inter alia with the following prayer:-

“It is therefore prayed that the Hon'ble court may graciously be pleased to admit the case and call for the records and after hearing both the parties pas the following reliefs:

i) To direct the Opposite Parties to prepare and finalise the gradation list of Sub-Inspector, RPF taking into account their position in the ASI as per the revised seniority list dtd.4.4.2024 as per the direction of this Hon'ble Court in W.A. No.317 of 2018.

iii) To pass such other order/orders as would be deemed fit and proper.

And for this act of kindness, the petitioners as in duty bound shall ever pray.”

5. Similarly, W.P.(C) No. 9082 of 2024 has been filed with the following prayer:-

“Under the aforesaid facts and circumstances of the case,

it is therefore, prayed that this Hon'ble Court may graciously be pleased to:

(i) admit / allow this Writ Petition;



(ii) quash the impugned Order of revised Seniority List as at Annexure-7 by concurrently holding the same as bad, illegal and not sustainable in the eye of law;

(iii) pass such other order(s) or issue direction(s) as may be deemed fit and proper in the bona fide interest of justice;

And for this act of kindness, the petitioners as in duty bound shall ever pray."

6. While W.P.(C) No. 9082 of 2024 has been filed seeking quashing of the revised seniority list published by the authorities of East Coast Railway (in short Railways) on 04.04.2024 under Annexure-7 to the said writ petition, W.P.(C) No.23839 of 2025 has been filed with a prayer to extend the benefit of such revised seniority list published on 04.04.2024 in favour of the Petitioners.

7. Learned counsel appearing for the Petitioners in W.P.(C) No. 23839 of 2025 contended that both the Petitioners even though were eligible to get the benefit of promotion to the rank of ASIPF in terms of the notice issued on 30.10.2009, to fill up 20 posts of ASIPF so issued by the authorities of Railways, but Petitioners when were not allowed to participate in the said selection process, they approached this Court by filing W.P.(C) Nos. 6671 of 2010 and 6672 of 2010.

7.1. It is contended that pursuant to the interim order passed in both the writ petitions, Petitioners were allowed to participate in the selection process in terms of the notice dtd.30.10.2009. It is however contended



that both the writ petitions were ultimately disposed of vide order dtd.28.10.2010 inter alia with the following observation and direction:-

“Thus, considering the case of the petitioner from any angle, he is found eligible to participate in the test for promotion to the rank of Assistant Sub-Inspector which was scheduled to be held on 21.04.2010 onwards.”

7.2. It is contended that pursuant to such order passed by this Court on 28.10.2010 and with due publication of the result, both the Petitioners were held eligible to get the benefit of promotion to the rank of ASI/RPF vide order dtd.08.08.2011. Vide the said order as against 20 posts available to be filled up by way of promotion as per notice dt.30.10.2009, 12 candidates including both the Petitioners were held eligible to get the benefit of promotion.

7.3. It is contended that after getting the benefit of such promotion vide order dtd.08.08.2011, vide another notification issued on 11.08.2011, the authorities of the Railways again decided to hold a competitive test to fill up 29 posts of ASI/RPF in terms of the provisions contained under Rule 72 of the RPF Rules, 1987.

7.4. However, at this point of time W.P.(C) No. 2558 of 2011 was filed by some of the Constables inter alia seeking similar benefit as was allowed to the present Petitioners by this Court in its order



dtd.28.10.2010 in W.P.(C) Nos. 6671 of 2010 and 6672 of 2010. The said writ petition was disposed of vide order dtd.12.08.2011 with the following direction:-

“8 In our considered opinion, petitioners are entitled for relief as has been granted in the aforesaid two writ petitions as the said benefit was denied to them in the earlier examination though some of them are admittedly senior to the petitioners in the earlier two writ petitions. to conduct Therefore, we direct the opposite party examination in accordance with law inviting applications from the eligible persons and after publication of the result. the correct place of seniority must be maintained amongst the persons who will be found successful vis-à-vis the persons who are selected pursuant to departmental examination held on 28.4.2010.”

7.5. It is contended that even though in terms of the order passed in W.P.(C) No. 2558 of 2011, Petitioners therein got the benefit of promotion vide order dtd.28.10.2011, but when in the Panel so prepared by the authorities of East Coast Railway maintaining the seniority of the Petitioners vis-à-vis the Petitioners in W.P.(C) No. 2558 of 2011, Petitioners being aggrieved, once again approached this Court by filing W.P.(C) No. 14022 of 2012. The said writ petition when was disposed of vide Judgment dtd.27.04.2018, the same was assailed in Writ Appeal No. 317 of 2018.



7.6. It is contended that the Writ Appeal in question was disposed of vide Judgment dtd.05.09.2023 with the following direction so contained in Para 27:-

“Having regard to this direction, a fresh gradation list shall be published and consequently, set aside the gradation list published on 18th January, 2012 (Annexure-11 to the memorandum of appeal). The Respondent No. 1 shall treat the select panel of the first recruitment exercise and the second recruitment exercise differently and in order to prepare the gradation list, Rule-97 of the RPF Rule, 1987 shall strictly be followed.”

7.7. It is further contended that such an order passed in Writ Appeal No. 317 of 2018 though was assailed before the Apex Court, but the same was also dismissed vide order dtd.15.04.2024. However, in terms of the order passed in Writ Appeal No. 317 of 2018 and prior to dismissal of the SLP, a fresh revised gradation list was published on 04.04.2024 under Annexure-4 to the writ petition in W.P.(C) No. 23839 of 2025.

7.8. On the face of such publication of the revised seniority list of ASIPF as on 02.08.2013 on 04.04.2024, when no further action was taken in the matter, the present writ petition was filed seeking a direction on the authorities of the Railways to finalize the gradation list of Sub-Inspector/ RPF taking into account their position in the revised seniority list published on 04.04.2024, as in the meantime Petitioners



have got the benefit of promotion to the rank of S.I. of Police, RPF. It is accordingly contended that appropriate direction be issued to the authorities of the Railways to finalize the gradation list of S.I. of Police, RPF taking into account the position of the Petitioners in the revised seniority list published on 04.04.2024, pursuant to the order passed by this Court in Writ Appeal No. 317 of 2018.

8. Mr. J. Pal, learned counsel appearing for the Petitioners in W.P.(C) No. 9082 of 2024, on the other hand made his submission basing on the pleadings made in the writ petition. While assailing the publication of the revised gradation list of ASIPF on 04.04.2024, learned counsel appearing for the Petitioners contended that pursuant to the order passed by this Court in W.P.(C) No. 2558 of 2011, Petitioners herein got the benefit of promotion to the rank of ASIPF vide order dtd.28.10.2011. In terms of the order so passed in W.P.(C) No. 2558 of 2011 and after being provided with the appointment vide order dtd.28.10.2011, a provisional gradation list of ASIPF was published by the authorities of the Railways on 02.08.2013, with due circulation to all concerned.

8.1. It is contended that such provisional gradation list of ASIPF so published by the authorities of the Railways on 02.08.2013, was never assailed by any of the employees so enlisted in the said provisional gradation list of ASIPF. It is also contended that prior to publication of



such provisional gradation list of ASIPF on 02.08.2013, though Petitioners in connected W.P.(C) No. 23839 of 2025, had already approached this Court by filing W.P.(C) No. 14022 of 2012, but the said writ petition along with W.P.(C) No. 12980 of 2017 was disposed of with the following observation so contained in Para 7:-

“7. This court, at this stage, is not inclined to entertain the prayer made by the petitioners in the writ petitions considering the fact that a committee has been constituted by the opposite parties to look into the matter for fixation of inter se seniority, as such declined to interfere with the decision of the authorities, however with the observation that the committee, while taking final decision, will take into consideration the direction passed by the Division Bench of this court in W.P.(C) No.2558 of 2011 as quoted above.”

8.2. Learned counsel appearing for the Petitioners contended that even though during pendency of the writ petition in W.P.(C) No. 14022 of 2012, the provisional gradation list of ASIPF was duly published and circulated on 02.08.2013, but the said fact was never brought to the notice of this Court when the matter was heard on 11.04.2018 with delivery of the judgment on 27.04.2018. It is also contended that placement of the Petitioners in W.P.(C) No. 23839 of 2025 in the provisional gradation list was never challenged with filing of any objection to such placement. It is accordingly contended that since publication of the provisional seniority list of ASIPF so published on



02.08.2013 was never brought to the notice of this Court while dealing with W.P.(C) No. 14022 of 2012 as well as W.A. No. 317 of 2018, it amounts to suppression of material facts and because of such suppression, Petitioners in W.P.(C) No. 23839 of 2025 are not entitled to get any benefit. In support of such submission, reliance was placed to the following decisions:

(1) (2022) 12 SCC 815 (K. Jayaram & Ors. Vs. Bangalore Development Authority & Ors.)

(2) 2022 LiveLaw (SC) 324 (Mekha Ram & Ors. Vs. State of Rajasthan & Ors.)

8.3. Hon'ble Apex Court in Para 10 to 13 & 15 of the Judgment in the case of **K. Jayaram** has held as follows:-

“10. It is well-settled that the jurisdiction exercised by the High Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the writ court must come with clean hands and put forward all facts before the court without concealing or suppressing anything. A litigant is bound to state all facts which are relevant to the litigation. If he withholds some vital or relevant material in order to gain advantage over the other side then he would be guilty of playing fraud with the court as well as with the opposite parties which cannot be countenanced.

11. This Court in Prestige Lights Ltd. v. SBI [Prestige Lights Ltd. v. SBI, (2007) 8 SCC 449] has held that a prerogative remedy is not available as a matter of course. In exercising extraordinary power, a writ court would indeed bear in mind the conduct of the party which is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise



guilty of misleading the court, the court may dismiss the action without adjudicating the matter. It was held thus : (SCC p. 461, para 33)

“33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.”

12. In Udyami Evam Khadi Gramodyog Welfare Sanstha v. State of U.P. [Udyami Evam Khadi Gramodyog Welfare Sanstha v. State of U.P., (2008) 1 SCC 560 : (2008) 1 SCC (Civ) 359] , this Court has reiterated that the writ remedy is an equitable one and a person approaching a superior court must come with a pair of clean hands. Such person should not suppress any material fact but also should not take recourse to legal proceedings over and over again which amounts to abuse of the process of law.

13. In K.D. Sharma v. SAIL [K.D. Sharma v. SAIL, (2008) 12 SCC 481] , it was held thus : (SCC pp. 492-93, paras 34-39)

“34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.



35. The underlying object has been succinctly stated by Scrutton, L.J., in the leading case of *R. v. Kensington Income Tax Commissioners* [*R. v. Kensington Income Tax Commissioners*, (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (KB & CA)] in the following words : (KB p. 514)

‘... it has been for many years the rule of the court, and one which it is of the greatest importance to maintain, that when an applicant comes to the court to obtain relief on an ex parte statement he should make a full and fair disclosure of all the material facts—it says facts, not law. He must not misstate the law if he can help it—the court is supposed to know the law. But it knows nothing about the facts, and the applicant must state fully and fairly the facts; and the penalty by which the court enforces that obligation is that if it finds out that the facts have not been fully and fairly stated to it, the court will set aside any action which it has taken on the faith of the imperfect statement.’

36. A prerogative remedy is not a matter of course. While exercising extraordinary power a writ court would certainly bear in mind the conduct of the party who invokes the jurisdiction of the court. If the applicant makes a false statement or suppresses material fact or attempts to mislead the court, the court may dismiss the action on that ground alone and may refuse to enter into the merits of the case by stating, ‘We will not listen to your application because of what you have done.’ The rule has been evolved in the larger public interest to deter unscrupulous litigants from abusing the process of court by deceiving it.

37. *In Kensington Income Tax Commissioners* [*R. v. Kensington Income Tax Commissioners*, (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (KB & CA)] , Viscount Reading, C.J. observed : (KB pp. 495-96)

‘... Where an ex parte application has been made to this Court for a rule nisi or other process, if the Court comes to the conclusion that the affidavit in support of the application was not candid and did not fairly state the facts, but stated them in such a way as to mislead the Court as to the true facts, the Court ought, for its own protection and to prevent an abuse of its process, to refuse to proceed any further with the examination of the merits.’



This is a power inherent in the Court, but one which should only be used in cases which bring conviction to the mind of the Court that it has been deceived. Before coming to this conclusion a careful examination will be made of the facts as they are and as they have been stated in the applicant's affidavit, and everything will be heard that can be urged to influence the view of the Court when it reads the affidavit and knows the true facts. But if the result of this examination and hearing is to leave no doubt that the Court has been deceived, then it will refuse to hear anything further from the applicant in a proceeding which has only been set in motion by means of a misleading affidavit.'

38. The above principles have been accepted in our legal system also. As per settled law, the party who invokes the extraordinary jurisdiction of this Court under Article 32 or of a High Court under Article 226 of the Constitution is supposed to be truthful, frank and open. He must disclose all material facts without any reservation even if they are against him. He cannot be allowed to play "hide and seek" or to "pick and choose" the facts he likes to disclose and to suppress (keep back) or not to disclose (conceal) other facts. The very basis of the writ jurisdiction rests in disclosure of true and complete (correct) facts. If material facts are suppressed or distorted, the very functioning of writ courts and exercise would become impossible. The petitioner must disclose all the facts having a bearing on the relief sought without any qualification. This is because "the court knows law but not facts".

39. If the primary object as highlighted in Kensington Income Tax Commissioners [R. v. Kensington Income Tax Commissioners, (1917) 1 KB 486 : 86 LJKB 257 : 116 LT 136 (KB & CA)] is kept in mind, an applicant who does not come with candid facts and "clean breast" cannot hold a writ of the court with "soiled hands". Suppression or concealment of material facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed



further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court.”

(emphasis in original)

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15. In the instant case, since the appellants have not disclosed the filing of the suit and its dismissal and also the dismissal of the appeal against the judgment of the civil court, the appellants have to be non-suited on the ground of suppression of material facts. They have not come to the court with clean hands and they have also abused the process of law. Therefore, they are not entitled for the extraordinary, equitable and discretionary relief.”

8.4. Similarly, Hon’ble Apex Court in Para 6.3 of the judgment in the case of **Mekha Ram** has held as follows:-

“6.3. Even otherwise, no one can be permitted to take the benefit of the wrong order passed by the court which has been subsequently set aside by the forum/court. As per the settled position of law, no party should be prejudiced because of the order of the court.”

8.5. However, basing on the order passed in Writ Appeal No. 317 of 2018 so confirmed by the Apex Court in Special Leave to Appeal No. 8494 of 2024, the revised seniority list of ASIPF has been published by the authorities of East Coast Railway on 04.04.2024 under Annexure-7, wherein Petitioners have been placed below the Petitioners in connected W.P.(C) No. 23839 of 2025 and such placement of the Petitioners vis-a-



vis the Petitioners in W.P.(C) No. 23839 of 2025, has not been made in terms of the order passed by this Court in W.P.(C) No. 2558 of 2011.

8.6. It is also contended that since in W.P.(C) No. 14022 of 2012, the gradation list of ASIPF was never an issue and the said writ petition was disposed of vide Judgment dtd.27.04.2018 with an observation to take into consideration the order passed in W.P.(C) No. 2558 of 2011, this Court while disposing Writ Appeal No. 317 of 2018, could not have directed for preparation of a fresh gradation list, instead of asking the authorities of the Railways to finalize the provisional gradation list of ASIPF published on 02.08.2013. It is also contended that this Court in W.A. No. 317 of 2018 never followed the direction of this Court in W.P.(C) No. 2558 of 2011, basing on which the provisional gradation list was published on 02.08.2013. Not only that order dt.12.08.2011, so passed in W.P.(C) No. 2558 of 2011 was never assailed by any one and accordingly had attained the finality by the time this Court disposed of W.A. No. 317/2018. It is accordingly contended that the revised seniority list of ASIPF published on 04.04.2024 under Annexure-7 to the writ petition requires interference of this Court and appropriate direction be issued to the authorities of the Railways to finalize the provisional gradation list of ASIPF published on 02.08.2013 considering the objections, if any.



9. To the submission made by the learned counsel appearing for the Petitioners in W.P.(C) No. 9082 of 2024, Mr. M.K. Khuntia, learned counsel appearing for the Petitioners in connected W.P.(C) No. 23839 of 2025, contended that after publication of the provisional gradation list on 02.08.2013, though they filed objections to the same, but no further action was taken with due consideration of their objections. However, it is fairly contended by the learned counsel appearing for the Petitioners in W.P.(C) No. 23839 of 2025 that, the provisional gradation list so published on 02.08.2013 was never assailed nor it was an issue in W.P.(C) No. 14022 of 2012.

9.1. It is also fairly contended that prior to disposal of W.P.(C) No. 14022 of 2012, no application for amendment was also filed by bringing to the notice of this Court about the publication of the provisional gradation list of ASI PF so published on 02.08.2013 in terms of order dtd.12.08.2011 in W.P.(C) No. 2558 of 2011, nor it was brought to the notice of this Court in W.A. No. 317 of 2018. However, since the Writ Appellate Court in Writ Appeal No. 317 of 2018, directed for preparation of a fresh gradation list following Rule 97 of the RPF Rules 1987, and while complying the same, the revised gradation list of ASI PF has been published on 04.04.2024. Basing on the position of ASI of Police so reflected in the revised gradation list



dt.04.04.2024, gradation list of S.I. of Police, RPF is required to be published.

10. Mr. P.K. Parhi, learned DSGI on the other hand made his submissions basing on the stand taken in the counter affidavit so filed today in W.P.(C) No. 23839 of 2025 (Copy of the counter be kept in record).

10.1. It is contended that Petitioners in W.P.(C) No. 23839 of 2025 pursuant to the order passed by this Court in W.P.(C) No. 6671 of 2010 and 6672 of 2010, were not only allowed to participate in the selection process for promotion to the rank of ASIPF pursuant to notice dtd.30.10.2009, but also after coming out successful, they were promoted to the rank of ASIPF vide order dtd.08.08.2011.

10.2. However, pursuant to the other order passed by this Court in W.P.(C) No. 2558 of 2011 on 12.08.2011, Petitioners therein were also allowed to participate in the selection process for promotion to the rank of ASIPF and after coming out successful, they were provided with the benefit of promotion vide order dtd.28.10.2011.

10.3. However, taking into account the nature of order passed in W.P.(C) No. 2558 of 2011, while considering the claim of the Petitioners in W.P.(C) No. 23839 of 2025 and the claim of the



Petitioners in W.P.(C) No. 9082 of 2024 and other ASIPF, the authorities of the Railways in its proceeding dtd.03.07.2013 fixed the seniority of ASIPF and provisional seniority list of ASIPF was duly published vide letter dtd.02.08.2013.

10.4. It is contended that provisional gradation list published on 02.08.2013 was never assailed by any of the ASIPF. However, because of pendency of various writ petitions before this Court, provisional seniority list of ASIPF so published on 02.08.2013 could not be finalized with due publication of the final gradation list of ASIPF. However, this Court in Writ Appeal No. 317 of 2018 and vide judgment dtd.25.09.2023 when directed for preparation of a fresh gradation list in terms of Rule 97 of the RPF Rules 1987, a revised gradation list of ASIPF has been published on 04.04.2024, which is the bone of contention in both the writ petitions.

10.5. It is however fairly contended that provisional gradation list of ASIPF, containing the claim of the Petitioners in both the cases in terms of the order passed in W.P.(C) No. 2558 of 2011, was duly considered with publication of the provisional seniority list of ASIPF on 02.08.2013. It is also fairly contended that such a provisional gradation list published on 02.08.2013, was never assailed by any of the ASIPF so enlisted in the said list nor it was brought to the notice of this Court



during pendency of W.P.(C) No. 14022 of 2012 and so also W.A. No. 317 of 2018. Stand taken by the authorities of the Railways in Para 6 & 7 of the counter affidavit reads as follows:-

“6. The petitioner narrated the events in an incoherent and unstructured manner, lacking clarity and consistency. Being aggrieved with the order of Railway Board, those staff filed Writ Petitions No. 6671/2010 and 6672/2010 in the Hon'ble High Court of Orissa, Cuttack to appear for the said promotion test scheduled to be held on 28.04.2010. Upon hearing the above Writ Petition, Hon'ble High Court vide order dated 13.04.2010 directed the Railways to permit the Petitioners to appear for the examination. Accordingly, the 06 Petitioners were allowed to appear in the selection test, held on 28.04.10 to 30.04.10 at VSKP. The proceeding submitted by the DPC was kept in sealed cover due to Hon'ble High Court's interim order.

After hearing both the sides, Hon'ble High Court vide order dated 28.10.2010 disposed of the matter taking cognizance of the provision of Rule 63.1 of RPF Rules -1987 and held that Railway Board's letter dated 20.11.2009 is contrary to the provision contained in Rule 63.1 of the RPF Rules which is not sustainable in law and cannot be held to be a valid order. The High Court further directed to declare the result.

Consequently, the matter was referred to the Railway Board to issue uniform guidelines in conformity with RPF Rules, 1987 to be adhered over all Zonal Railways including E.Co. Railway for conducting selection UR-72 of RPF Rules, 1987. There were a large number of candidates of this Zone who were not permitted to appear the selection on the same footing/status as those of the Petitioners, while the Petitioners were allowed to appear in the test as per direction of Hon'ble High Court.



In the meantime, 10 members of staff, who were not permitted to appear the test held on 28.04.2010 filed a Writ Petition No. 2558/2011 with prayer to quash the selection in pursuance of Hon'ble High Court's order dated 28.10.2010.

On the other hand, those 06 Petitioners (W.P. No. 6671-72/2010), who were allowed to appear in the Selection test filed a Contempt Petition No. 252-253/2011 for non-compliance of High Court's order dated 28.10.10 owing to non-publication of result.

On 03.08.2011, the 02 Review Petitions No. 68 & 69/2011 along with Contempt Petition vide CONTC No. 252-253/2011 listed for hearing, were dismissed and Opposite Party in the Contempt matters was directed to appear in person on 10.08.2011 with compliance of the order dated 28.10.10.

Accordingly, in pursuance to the order dated 03.08.2011, the Opposite Party i.e. CSC/ECOR published the result for promotion to the rank of ASIPF under Rule-72 of RPF Rules, 1987 vide F.O No. 45/2011 dated 08.08.2011. On 10.08.2011 after personal appearance of CSC/ECOR with compliance order, the CONTC No. 252-253/2011 filed by the petitioners was disposed of.

Thereafter, the W.P (C) No. 2558/2011 filed by Sri P.K.Mishra and 09 others, who were not permitted to appear in the selection test, were disposed of vide order dated 12.08.2011 with following orders: "In our considered opinion, petitioners are entitled for relief as has been granted in the aforesaid two writ petitions (W.P (C) No. 6671/2010 and 6672/2010) as the said benefit was denied to them in the earlier examination though some of them are admittedly senior to the petitioners in the earlier two writ petitions. Therefore, we direct the Opposite Party to conduct examination in accordance with law inviting applications from eligible persons and after publication of the result, the correct place of seniority must be maintained amongst the persons who



will be found successful vis-a vis the persons who are selected pursuant to departmental examination held on 28.04.2010"

Further, on 11.08.2011 another Notification for the selection of ASI U/Rule 72 was issued to fill up 29 vacancies including the backlog vacancies of 08 ASIs of previous selection. Since, Hon'ble High Court of Orissa, Cuttack issued direction on 12.08.2011 i.e. one day after the aforesaid Notification for selection under Rule 72, applications were invited from all eligible candidates including the petitioners who were denied of the benefit of appearing in the earlier test held on 28.04.2010 to 30.04.2010 and selection against 29 posts of ASI was held from 13.10.2011 to 15.10.2011.

7. That is in accordance with the notification dated. 11.8.2011 Those who are eligible including applicants exercised their written willingness to appear for the departmental examination to be considered for promotion to the rank of ASI. It is pertinent to mention here that some candidates who have appeared for the examination in accordance with notification dated 30.10.2009 but could not succeed in the said examination also exercised their written willingness to appear the test as per the notification dated 11.8.2011. The written test was conducted from 13.10.2011 to 15.10.2011 where the applicants appeared for the written test.

The result of the candidates who have appeared the test in response to notification dated 11.8.2011 was published on 28.10.2011. In the said selection test 29 candidates were declared to have passed the written test to be enlisted for promotion to the rank of ASI under Rule 72 of RPF Rule 1987.

Further in obedience to order passed by Hon'ble High Court dated 12.08.2011, the result panel of 29 successful candidates recommended by the selection committee for promotion



was published vide F.O No.68/2011 dated 28.10.2011 according to the notified vacancy. All the empanelled candidates of Panel F.O No.45/11 dated 08.08.11 and F.O No. 68/11/dated 28.10.11 after successful completion of promotion course training posted to different post and out post over E.Co.Railway vide F.O. No. 02/2012 dated 18.01.2012.

In pursuance to the order dated 12.08.2011 passed in W.P No. 2558/2011, the opposite party ie CSC/ECOR has complied the same by constituting a 03 member committee consisting of (03 JAG Officers) Sri C.Marndi, Sr. Divl. Security Commissioner/RPF/Khurda Road, Sri P.K. Gupta, Sr.Divl. Security Commissioner/ RPF/ Waltair and Chief Security Sri R.S.P.Singh, Dy. Commissioner/RPF/Bhubaneswar to draft a seniority list by maintaining the seniority amongst the successful candidates of both selection tests vide letter No. RPF/E.CO.R/E/24-2003/Srty ASI/1857 dated 19.04.2012. Accordingly, the committee assembled at Khurda Road on 02.07.2013 for finalization of seniority list.

The committee after considering all the facts prepared a seniority list amongst the successful candidates of both the selection tests held on 28.04.2010 and 13.10.11. Since both the selection tests were separate and different, the committee adopted the percentile procedure, wherein, a score is compared with the other scores in the same test. The Committee submitted the proceeding to CSC/ECOR/BBS vide letter No. RPF/KUR/Seniority ASI/ 104 dated 03.07.2013. Accordingly, CSC/RPF/ECOR published the provisional seniority list and circulated to all concerned vide letter No. RPF/ECOR/E/54-2003/3641 dated 02.08.2013.)

It is to mention here that in between these two selection test of ASI under Rule 72 (competitive selection) another selection test



of ASI under Rule -70 (seniority cum-suitability selection) was conducted vide notification dated 21.06.2011 to fill up 47 vacancies (UR-36, SC-08 and ST-03). The panel of successful candidates of ASI under Rule-70 was issued vide Force Order No. 67/2011 dated 25.10.2011. Though these 47 successful candidates were empanelled prior to the successful candidates of selection test of ASI under rule-72 issued vide Force order No. 68/2011 dated 28.10.2011 but in compliance to the order dated 12.08.2011 in W.P. No. 2558/2011, the later candidates were placed senior in the provisional seniority list of ASI.

Being aggrieved the unsuccessful candidates of the 2nd selection held on 13.10.2011 to 15.10.2011 who secured more marks than the candidate of the first selection held on 28.04.2010 to 30.10.2020 filed several writ petitions which were clubbed with W.P No. 1435/2012 with prayer to include their names in panel list of ASI I-JR-72. Those Writ petitions were disposed of by a common judgment order dated 27.04.2018. The said decision was challenged again in a series of Appeals vide Writ Appeal No. 94/2018 and the same were disposed of by common order dated 01.12.2022.”

10.6. Learned DSGI however fairly contended that since this Court in Writ Appeal No. 317 of 2018, directed for preparation of a fresh seniority list, while complying such a direction, the revised seniority list of ASIPF has been published on 04.04.2024, which is the issue in both the writ petitions.

11. Having heard learned counsel appearing for the Parties and considering the submissions made, it is found that Petitioners in



W.P.(C) No. 23839 of 2025, while continuing as Constable/Head Constable, a notification was issued by the authorities of the Railways on 30.10.2009 for selection on promotion of Constables and Head Constables to the rank of ASIPF. In the said notification 20 posts were advertised to be filled up by way of promotion to the rank of ASIPF.

11.1. Petitioners in W.P.(C) No. 23839 of 2025, when were not allowed to participate in the selection process pursuant to notice dtd.30.10.2009, they approached this Court by filing W.P.(C) Nos. 6671 of 2010 and 6672 of 2010. Basing on the interim order passed in those two writ petitions, Petitioners in the said case were not only allowed to participate in the selection process, but also both the Petitioners came out successful in the process of selection. Pursuant to the final order passed on 28.10.2010 in W.P.(C) Nos. 6671 and 6672 of 2010, both the Petitioners in W.P.(C) No. 23839 of 2025 got the benefit of promotion to the rank of ASIPF vide order dtd.08.08.2011.

11.2. It is found that claiming similar benefit of participation in the selection process pursuant to notification dtd.30.10.2009, Petitioners in W.P.(C) No. 9082 of 2024, approached this Court by filing W.P.(C) No. 2558 of 2011. Petitioners in the said writ petition were also extended with similar benefit as was extended in favour of the Petitioners in W.P.(C) Nos. 6671 of 2010 & 6672 of 2010. Pursuant to



order dt.12.08.2011 in W.P.(C) No. 2558 of 2011, Petitioners therein also got the benefit of promotion to the rank of ASIPF vide order dtd.28.10.2011 after coming out successful in the selection process.

11.3. However, taking into account the nature of order passed by this Court on 22.08.2011 in W.P.(C) No. 2558 of 2011, when a Panel was published by the Railways reflecting the position of the Petitioners in both the cases, W.P.(C) No. 14022 of 2012 was filed by the Petitioners in W.P.(C) No. 23839 of 2025. Even though during pendency of W.P.(C) No. 14022 of 2012, the provisional gradation list of ASIPF was published on 02.08.2013 in terms of order dt.12.08.2011 in W.P.(C) No. 2558 of 2011, but the same was never brought to the notice of this Court while dealing with W.P.(C) No. 14023 of 2012 as well as W.A. No. 317/2018. Position of the eligible ASIPF so reflected in the provisional seniority list dt.02.08.2013 was never assailed by any of the ASIPF at any point of time nor any objection was filed to such placement by any of the ASIPF including both the Petitioners in W.P.(C) No. 23839 of 2025.

11.4. In absence of such vital information being provided to this Court, the writ petition in W.P.(C) No. 14022 of 2012 was disposed of vide judgment dtd.27.04.2018. This Court while disposing the writ petition, observed that while taking a final decision with regard to seniority of



the Petitioners in both the cases, direction of this Court in W.P.(C) No. 2558 of 2011 is required to be followed. Challenging such order passed by this Court on 27.04.20218 in W.P.(C) No. 14022 of 2012, Writ Appeal No. 317 of 2018 was filed by the Petitioners in W.P.(C) No. 23839 of 2025. The Writ Appellate Court vide judgment dtd.25.09.2023 while disposing the writ appeal, directed for preparation of a fresh gradation list and while directing so, the Writ Appellate Court wrongly quashed order dtd.18.01.2012.

11.5. Pursuant to such order passed in the Writ Appeal, the revised seniority list of ASIPF was published on 04.04.2024, which is under challenge either way in both the writ petitions. This Court taking into account the nature order passed in W.P.(C) No. 2558 of 2011, finds that pursuant to order dt.12.08.2011 Petitioners in W.P.(C) No. 9082 of 2024, got the benefit of promotion to the rank of ASIPF vide order dtd.28.10.2011. Petitioners in W.P.(C) No. 23839 of 2025 had got the said benefit of promotion vide order dtd.08.08.2011 in terms of the order passed in W.P.(C) Nos.6671 of 2010 and 6672 of 2010. However, considering the nature of order passed in W.P.(C) No. 2558 of 2011 and as found from the stand taken in the counter affidavit, the authorities of the Railways prepared a provisional seniority list of ASIPF so published on 02.08.2013.



11.6. It is not disputed by any of the Parties in both the writ petitions, that such a provisional gradation list published on 02.08.2013 was assailed at any point of time. It is also not disputed that, publication of such provisional seniority list of ASI PF published on 02.08.2013, was never brought to the notice of this Court while dealing with W.P.(C) No. 14022 of 2012, nor it was brought to the notice of this Court, while dealing with the matter in Writ Appeal No. 317 of 2018.

11.7. Since the provisional seniority list of ASI PF published on 02.08.2013 pursuant to order dt.12.08.2011 in W.P.(C) No. 2558 of 2011 was never produced before this Court in W.P.(C) No. 14022 of 2012 and so also in Writ Appeal No. 317 of 2018, it is the view of this Court that order dt.25.09.2023 in Writ Appeal No. 317 of 2018 has been obtained by the Petitioners in W.P.(C) No. 23839 of 2025 by suppressing material facts. Since order dt.25.09.2023 in W.A. No. 317/2018 has been obtained with supersession of material fact, placing reliance on the decision in the case of **K. Jayaram** as well as **Mekha Ram** as cited (supra), it is the view of this Court that benefit of the said order cannot be extended to the Appellant in Writ Appeal No. 317 of 2018 / Petitioners in W.P.(C) No. 23839 of 2025.

11.8. It is also the view of this Court that order dt.12.08.2011 in W.P.(C) No. 2558 of 2011 was never assailed and provisional seniority



list of ASIPF published in terms of the said order on dt.02.08.2013, was also never assailed.

11.9. In view of the aforesaid analysis, this Court is inclined to quash the revised seniority list of ASIPF published on 04.04.2024, which is the subject matter of challenge in W.P.(C) No. 9082 of 2024. While quashing the said seniority list, this Court directs the authorities of the Railways to publish the final seniority list of ASIPF, taking into account the position of ASIPF in the provisional seniority published on 02.08.2013, with due consideration of the objections, if any filed by any of the enlisted ASIPF. This Court directs the authorities of the Railways to publish such final seniority list of ASIPF within a period of two (2) months from the date of receipt of this order.

12. Both the writ petitions accordingly stand disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Orissa High Court, Cuttack
Dated the 28th November, 2025/Sneha

Signature Not Verified

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Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 11-Dec-2025 17:41:32