IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.1529 of 2025
CNR No. ODHC010631032025

(Under Clause 10 of the Letters Patent constituting High Court of Judicature at Patna read with Article 4 of the Orissa High Court Orders, 1948 and the Provisions of Rule 6 of Chapter III of the Orissa High Court Rules, 1948)

Sasmita Debata .... ***Appellant***

-versus-

Revenue Divisional Commissioner (RDC), Central Zone, Cuttack and others ... ***Respondents***

Advocate(s) appeared in this case:-

For Appellant : Mr. Soumya Mishra, Advocate

For Respondents : Mr. S.K. Jee, AGA
(For Respondents No. 1 to 4)
Dr. J.K. Lenka, Advocate
(For Respondent No.5)

CORAM:
HON'BLE MR. JUSTICE B. P. ROUTRAY
HON'BLE MISS JUSTICE SAVITRI RATHO

JUDGMENT
29th October, 2026

B.P. Routray, J.

1. Heard Mr. S. Mishra, learned counsel for the Appellant, Mr. S.K. Jee, learned Additional Government Advocate for Respondents No.1 to 4 and Dr. J.K. Lenka, learned counsel for Respondent No.5.

2. Present appeal is directed against judgment dated 08.08.2025 (Annexure-10) of the learned Single Judge passed in W.P.(C) No. 19236 of 2025.

3. The dispute is between the Appellant and the private Respondent No.5 with regard to selection of Anganwadi Worker of Senanda Anganwadi Centre in the District of Jajpur. The facts relevant for the purpose are to the effect that Appellant and Respondent No.5 both applied as candidates for selection as Anganwadi Worker in Senanda Anganwadi Centre. Undisputedly, Respondent No.5 secured more marks in the selection process which is based on the marks secured in the +2 examination. For the selection purpose, the qualifications higher than +2 standards also bear certain marks. While submitting her candidature, Respondent No.5 did not submit her +2 / Intermediate Examination Certificate or marksheet. It needs to be mentioned here that the minimum qualification required for applying to the post of Anganwadi Worker is +2 pass certificate. The higher qualification is the additional requirement giving additional marks. In the selection list, Respondent No.5 stood first securing 60.83 marks and the Appellant as second securing 52.33 marks. But present Appellant was selected, who stood second in the merit list, on the ground that the application of Respondent No.5 was not

accompanied with intermediate (+2) mark-sheet. Thus, the Appellant was appointed despite she was second meritorious candidate in the selection process for appointment as Anganwadi Worker. Challenging said appointment of the Appellant, Respondent No.5 preferred appeal before the Additional District Magistrate, Jajpur who ruled in her favour quashing the appointment of the Appellant. The Appellant then preferred revision before the Revenue Divisional Commissioner which was allowed in her favour quashing the order of the appellate authority. This order of the revisional authority was again challenged before the learned Single Judge in W.P.(C) No. 19236 of 2025. The learned Single Judge set aside the order of the revisional authority and restored the order of the appellate authority directing in favour of Respondent No.5. The said order of learned Single Judge is impugned before us in present intra court appeal.

4. It is submitted at the bar that, presently Respondent No.5 is continuing in the post as Anganwadi Worker of Senanda Anganwadi Centre after she succeeded before the first appellate authority. Thus, present Appellant who was initially appointed as such, is no more in employment after the order of the first appellate authority.

5. The short question falls for determination in present appeal is to the effect that, whether non-submission of the +2 pass certificate by Respondent No.5 at the time of submission of her application for the post, in terms of the advertisement, would be considered as a mandatory failure on her part so as to reject her candidature.

6. The advertisement was issued on 25.09.2023 inviting applications from intending candidates in online mode in between 25.09.2023 to 12.10.2023. The date for verification of the candidature with original documents was fixed on 13.10.2023. Admittedly, Respondent No.5 while submitting her application in online mode did not submit her +2 pass certificate or marksheet though she has submitted her +3 pass certificate. According to Respondent No.5, she did not upload the same at the time of submission of her application inadvertently.

7. While adjudicating the prayer of Respondent No.5, the first appellate authority at Annexure-7 has opined that she had uploaded all documents on 28.09.2023. But as per the order of the revisional authority at Annexure-9, she had not attached +2 pass certificate at the time of submission of the application in online mode and therefore the finding of the first appellate court was contrary to the materials available

on record. It is the opinion of the revisional authority that when any qualification is prescribed for the post advertised, documents submitted up-to the last date of application alone can be considered and as such, the selection committee has rightly rejected the candidature of the Respondent No.5 as Anganwadi Worker.

8. The learned Single Judge in the impugned judgment has posed the question at paragraph 18 that, whether failure on the part of Respondent No.5 to upload the relevant document along with her online application could be treated as fatal to her candidature ? In his opinion, learned Single Judge had said that since Respondent No.5 has the higher qualification than the Appellant and secured more marks than the Appellant, the technicalities that she did not furnish her +2 pass certificate along with online application cannot stand on her way to nullify her eligibility.

9. As we have stated earlier, the sole question remains whether non-submission of the +2 pass certificate at the time of submission of application by Respondent No.5 would be considered as mandatory condition in terms of the advertisement under Annexure-1. As per the conditions mentioned in the advertisement at Annexure-1, all the testimonials including 12th pass (+2) certificate and mark-sheet was

required to be submitted along with the online application. It is true that there is no such expressed stipulation in the advertisement whether the application of the candidate would be rejected in case of failure to upload all such testimonials at the time of submission of online application.

10. According to the submission of Mr. Mishra, learned counsel for the Appellant, even if there was no such expressed mention in the advertisement regarding rejection of candidature due to non-submission of any particular testimonial required as per the advertisement, but it is mandatory on the part of every candidate to submit all such testimonials along with the online application. It is also submitted that the minimum educational qualification was 12th pass examination and thus Respondent No.5 when failed to submit her 12th pass certificate at the time of submission of her application, her candidature was rejected rightly because such requirement of submission of the 12th pass certificate was a condition mandatory on the part of each candidate. Mr. Mishra, learned counsel for the Appellant, further submits that considering the requirements prescribed in the advertisement as a whole, the submission of 12th pass certificate in particular cannot be relaxed or dispensed with as it is the basis of selection depending on the marks secured in the 12th class examination.

11. According to the Appellant, the selection committee by mentioning non-submission of 12th pass certificate along with online application of Respondent No.5 has rejected her candidature as disqualified and the appellate authority cannot enter into the domain of the selection committee to relax that condition permitting Respondent No.5 to submit her 12th pass certificate at a later stage.

12. He relies on the decision of the Hon'ble Supreme Court in ***Ankita Thakur and others vs. The H.P. Staff Selection Commission and others : (2024) 19 SCC 745***, to substantiate his stand that such condition is mandatory on the part of the candidate. The Hon'ble Supreme Court in ***Ankita Thakur's*** case have held as follows:-

> "24. It is well settled that eligibility criteria / conditions, unless provided otherwise in the extant rules or the advertisement, must be fulfilled by the candidate by the last date for receipt of applications specified in the advertisement [**See: Rakesh Kumar Sharma** (supra)].
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> 25. In **Bedanga Talukdar** (supra), this Court observed:
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> > "29. …… In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule

is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India.

30. A perusal of the advertisement in this case will clearly show that there was no power of relaxation. In our opinion, the High Court committed an error in directing that the condition with regard to the submission of the disability certificate either along with the application form or before appearing in the preliminary examination could be relaxed in the case of Respondent 1.

Such a course would not be permissible as it would violate the mandate of Articles 14 and 16 of the Constitution of India.

32. ……. It is settled law that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and/or in the advertisement. Even if there is a power of relaxation in the rules, the same would still have to be specifically indicated in the advertisement. ……..”

(Emphasis supplied)

26. The above decision has been followed in ***Sanjay K. Dixit*** (supra). Thus, the law is settled that if the extant Rules provide for the power to relax the eligibility criteria, the same could be exercised only if such power is reserved in the advertisement. And when this power is exercised, there must be wide publicity of its exercise so that persons who are likely to benefit by exercise of such power may get opportunity to apply and compete.

27. In the instant case, it is not shown that the advertisement reserved the power to relax the essential eligibility qualifications specified in the advertisement at any later stage. Rather, the advertisement is specific that eligibility criteria must be fulfilled by an aspiring candidate by the last date fixed for receipt of the application. It is not demonstrated that after the decision to relax the eligibility criteria was taken, the same was widely publicised, and the last date to apply under the advertisement was extended to enable persons benefited by such relaxation to apply and compete. In these circumstances, in our view, the power to relax the eligibility criteria, even if it existed, was not exercised in consonance with the settled legal principles and it violated the constitutional mandate enshrined in Articles 14 and 16 of the Constitution. Issue No.(i) is decided in the terms above."

13. Mr. Mishra, learned counsel further relies on the case of ***Tajvir Singh Sodhi and others vs. The State of Jammu and Kashmir and others : (2023) SCC OnLine SC 344***. The Hon'ble Supreme Court have stated in the said case as follows:-

"12.1. Thus, the inexorable conclusion that can be drawn is that it is not within the domain of the Courts, exercising the power of judicial review, to enter into the merits of a selection process, a

task which is the prerogative of and is within the expert domain of a Selection Committee, subject of course to a caveat that if there are proven allegations of malfeasance or violations of statutory rules, only in such cases of inherent arbitrariness, can the Courts intervene.

Thus, Courts while exercising the power of judicial review cannot step into the shoes of the Selection Committee or assume an appellate role to examine whether the marks awarded by the Selection Committee in the viva-voce are excessive and not corresponding to their performance in such test. The assessment and evaluation of the performance of candidates appearing before the Selection Committee/Interview Board should be best left to the members of the committee. In light of the position that a Court cannot sit in appeal against the decision taken pursuant to a reasonably sound selection process, the following grounds raised by the writ petitioners, which are based on an attack of subjective criteria employed by the selection board/interview panel in assessing the suitability of candidates, namely, (i) that the candidates who had done their post-graduation had been awarded 10 marks and in the viva-voce, such PG candidates had been granted either 18 marks or 20 marks out of 20. (ii) that although the writ petitioners had performed exceptionally well in the interview, the authorities had acted in an arbitrary manner while carrying out the selection process, would not hold any water."

14. Dr. J.K. Lenka, learned counsel for Respondent No.5 on the other hand submits that, when the acquisition of minimum qualification by Respondent No.5 before the date of application is not disputed and she had such qualification, but could not submit the certificate

inadvertently, this technical approach of the Selection Committee to reject her candidature by mentioning non-submission of intermediate pass certificate in the selection list is illegal as no such intimation was given to Respondent No.5 regarding her rejection of candidature. He further submits that, without any express mention of rejection of candidature of Respondent No.5, the selection of the Appellant who is less meritorious candidate than Respondent No.5 is certainly illegal and thus the First Appellate Authority as well as the learned Single Judge have rightly directed in favour of Respondent No.5. It is also submitted by Dr. Lenka, learned counsel, that, if the technicalities will be looked into in *stricto sensu*, present applicant has also mentioned her husband's name wrongly in the application form. She has mentioned her husband's name as Santosh Debata instead of Santosh Nanda. It is thus submitted by Dr. Lenka, learned counsel that, such hyper technical approach of the Selection Committee in respect of Respondent No.5 only is unsustainable.

15. Coming to the question as posed in above paragraphs that, whether non-submission of the 12th pass certificate will be considered as a mandatory condition to reject the candidature, it needs to mention here that the clauses and conditions mentioned in the advertisement

does not expressly stipulate anything regarding rejection of the candidature for non-submission of the require testimonial at the time of submission of the application. Undoubtedly, it is mentioned in the advertisement that the candidate is required to submit all such testimonials including 12th pass certificate and the mark sheet. The marks secured by Respondent No.5 were mentioned in her application correctly and she had also submitted about her higher qualification correctly. The marks allocated to Respondent No.5 as per the selection list under Annexure-5 indicates higher mark secured by her than the Appellant. This otherwise show that the marks mentioned by Respondent No.5 at the time of submission her application was correct including +2 and +3 marks. It is not that the Appellant is more meritorious than Respondent No.5 and in fact Respondent No.5 stood first in the selection process.

16. When the conditions of the advertisement do not specifically stipulate regarding rejection of the candidature due to non-submission of the testimonials at the time of submission of application by the candidate, it cannot be inferred that submission of a particular testimonial at a later point of time would amount to relaxation of any condition fixed in the advertisement. The contents of entire

advertisement as a whole if read carefully would point out that the conditions stipulated would be mandatory in the sense that any such testimonial left inadvertently could be submitted at a later point of time. Therefore, in our opinion, the submission of 12th pass certificate by the candidate at the time of verification cannot be rejected against her candidature as mandatory requirement stipulated in the conditions of advertisement. Therefore, in strict sense it is not that relaxation is to be exercised by the Selection Committee in absence of any enabling clause in the advertisement, but in our opinion it is a question of pure technicality. Since it is not disputed that Respondent No.5 had the minimum qualification and other such higher qualifications mentioned in the application form, she should be permitted to rectify the inadvertent mistake at the time of verification of documents.

17. Thus, no substantial reason is found to interfere with the judgment of the learned Single Judge and same is upheld.

18. Accordingly, the Writ Appeal is dismissed.

(B.P. Routray)
Judge

Savitri Ratho, J.

19. I do not agree with the view of Brother Justice Routray that in the absence of a specific condition in the advertisement regarding rejection of candidature due to non-submission of the testimonials at the time of submission of application by the candidate and acceptance of a particular testimonial (12th pass certificate and marksheet) at a later point of time would amount to relaxation of any condition in the advertisement and that submission of 12th pass certificate at the time of verification cannot be rejected taking it to be a mandatory requirement stipulated in the advertisement . But I agree with the ultimate conclusion of brother Justice B.P. Routray that the judgment of the learned Single Judge does not call for any interference and should be dismissed, for the following reasons : -

i) In Clause 15 of the Advertisement, the documents to be submitted online alongwith the application have been indicated and include Class 12 pass certificate and Class 12 marksheet. Merit list is to be prepared basing on the marks obtained in Class 12. It is the admitted case that although Respondent No. 5 possessed the minimum qualification but had not submitted the copies of these two certificates with her application and submitted

them at the time of verification of documents. Her failure to submit these documents before the last date, should have entailed in rejection of her application, as acceptance of the Class 12 pass certificate and Class 12 marksheet of the Appellant after the last date mentioned in the advertisement, amounts to extension of the last date for submission of application with supporting documents, without a notice or corrigendum to that effect, thereby depriving other candidates who may be more meritorious than Respondent No. 5, but could not submit applications with supporting documents for any reason, before the last date.

ii) Allowing candidates to submit certificates in support of their eligibility or merit after the last date mentioned in the Advertisement, would give rise to a chaotic situation as candidates will submit their applications online without supporting documents and claim for considering the documents submitted by them after the last date and in the absence of supporting documents, the authorities will be prevented from drawing up a list of eligible candidates.

iii) The Supreme Court in the case of ***Ankita Tiwari*** (supra) has *inter alia* held that power of relaxation approved by the State

Cabinet could not have been exercised after the last date of the advertisement when no opportunity was afforded to similarly placed candidates, who might have been left out, to apply and compete. But considering the fact that the candidates who had been appointed on the basis of the order of relaxation, had been working since six years and there was no specific allegation of nepotism and malafides behind their appointments, did not disturb their appointments.

iv) There is no allegation of malafides or nepotism behind acceptance of Class 12 pass certificate and Class 12 marksheet of Respondent No.5, after the last date mentioned in the advertisement.

v) Undisputedly Respondent No.5 is more meritorious than the Appellant, having secured more marks in Class 12 than the Appellant, she had mentioned the correct marks secured by her in Class 12 in her application and is working in the post since 24.06.2024.

(Savitri Ratho)
Judge

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