IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 42435 of 2023
CNR No. ODHC011045332023

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

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Ratnamanjari Swain .... ***Petitioner***

-versus-

State of Odisha & Ors. .... ***Opposite Parties***

For Petitioner : Mr. J. Biswal, Advocate

For Opp. Parties : Mr. S.P. Das, Addl. Standing Counsel

PRESENT:
THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 05.11.2026 & Date of Judgment:05.11.2026

Biraja Prasanna Satapathy, J.

1. This matter is taken up through hybrid mode.

2. Heard Mr. J. Biswal, learned counsel appearing for the Petitioner and Mr. S.P. Das, learned Addl. Standing Counsel appearing for the Opp. Parties.

3. The present writ petition has been filed inter alia with the following prayer:-

> *"It is therefore, most humbly prayed that this Hon'ble Court be graciously pleased to:-*
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> *i) Admit the writ application.*
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> *ii) Call for the record.*
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> *iii) Issue Rule NISI calling upon the opposite parties to show cause as to why the impugned order of rejection dated 23.03.2023 under Annexure:5 and 27.04.2023 under Annexure:8 issued by the opposite party No.3 shall not be quashed.*
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> *iv) If the opposite parties more particularly Opposite Party No. 3 fails to show cause or show insufficient cause, make the rule absolute by issuing writ in the nature of certiorari or any other writ/writs, order/orders by quashing the impugned order of rejection dated 23.03.2023 under Annexure:5 and 27.04.2023 under Annexure:8;*
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> *v) Issue a writ in the nature of mandamus or any other writ/writs direction/directions directing the opp. Parties more particularly the Opposite Party No. 3 to accept the candidature of the petitioner as Constable, GRP, Cuttack and accordingly appoint her to the said post from the date other Constables were appointed pursuant advertisement under Annexure:1 with all financial and consequential service benefits within a stipulated time to be fixed by this Hon'ble Court; to*
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> *vi) And/or such pass other order/orders, direction/directions as this Hon'ble Court may deems fit and proper for the ends of justice.*

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

4. Learned counsel appearing for the Petitioner contended that pursuant to the Advertisement issued by the State Selection Board, Odisha Police on 30.12.2022 under Annexure-1 inviting application to fill up the post of Constables (Civil) in Odisha Police, Petitioner made the application under Annexure-2 series.

4.1. It is contended that as provided in the Advertisement so issued under Annexure-1 with regard to the general eligibility criteria mentioned under Para 5(f), the candidate must have registered in one of the Employment Exchanges of the District, covering the district for which he applies for recruitment, before the date of publication of advertisement for recruitment.

4.2. Learned counsel appearing for the Petitioner contended that while making the application, Petitioner enclosed the registration certificate issued in her favour so available at Page 37 of the brief. It is contended that on receipt of the application, Petitioner was allowed to take part the written test and after coming out successful in the said written test and on being shortlisted for physical measurement and physical efficiency test so available under Annexure-3, Petitioner was issued with the admit card under Annexure-4. Petitioner also appeared in the physical test. But on the ground that the employment exchange certificate so furnished by the Petitioner along with her application since has expired its validity in the month of December, 2021, Petitioner's candidature was rejected under Annexure-5 dtd.23.03.2023.

4.3. Learned counsel appearing for the Petitioner contended that challenging such rejection, Petitioner approached this Court by filing W.P.(C) No. 9588 of 2023. This Court vide order dtd.03.04.2023 under Annexure-6 while disposing the writ petition, directed the Chairman, State Selection Board to take a fresh decision following the decision in the case of ***Union of India vs. Pritilata Nanda*** reported in 2010 (11) SCC 674. Hon'ble Apex Court in the case of ***Pritilata Nanda*** in Para 21 to 23 has held as follows:-

> *"**21.** We also agree with the High Court that once the candidature of the respondent was accepted by the authorities concerned and she was allowed to participate in the process of selection i.e. the written test and viva voce, it was not open to them to turn around and question her entitlement to be considered for appointment as per her placement in the merit list on the specious ground that her name had not been sponsored by the employment exchange. In our considered view, by denying appointment to the respondent despite her selection and placement in the merit list, the appellants violated her right to equality in the matter of employment guaranteed under Article 16 of the Constitution.*
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> ***22.** However, there is a small aberration in the operative part of the impugned order. While the High Court was fully justified in directing the appellants to appoint the respondent from the date persons lower in merit were appointed, but it is not possible to confirm the direction given for payment of full salary with retrospective effect. In our view, the High Court should have directed the appellants to notionally fix the pay of the respondent with effect from the date the person placed at Sl. No. 12 in the merit list was appointed and give her all monetary benefits with effect from that date.*

23. *In the result, the appeal is dismissed. However, the operative part of the impugned order is modified in the following terms:*

(1) The competent authority concerned of the South-Eastern Railway shall, within a period of two weeks from today, issue order appointing the respondent on a Class III post. The appointment of the respondent shall be made effective from the date the person placed at Sl. No. 12 in the merit list was appointed. The pay of the respondent shall be notionally fixed with effect from that date and she shall be given actual monetary benefits with effect from 5-9-2008 i.e. the date specified in the order passed by the High Court.

(2) The pay of the respondent shall also be fixed in the revised pay scales introduced from time to time and she be paid arrears within a period of four months.

(3) The seniority of the respondent among Class III employees shall be fixed by placing her below the person who was placed at Sl. No. 10 in the merit list.

(4) If during the intervening period, any person junior to the respondent has been promoted on the next higher post, then her candidature shall also be considered for promotion and on being found suitable, she shall be promoted with effect from the date any of her junior was promoted and she be given all consequential benefits.

(5) The General Manager, South-Eastern Railway is directed to ensure that the respondent is not victimised by being posted in a remote area.

(6) Since the respondent has been deprived of her rights for almost 21 years, we direct the appellants to pay her costs of Rs. 3,00,000. The amount of costs shall be paid within two months from today."

4.4. It is contended that in terms of the said order, Petitioner though raised a grievance before the Chairman, State Selection Board-Opp. Party No. 3

under Annexure-7, but the same was rejected vide the impugned order dtd.27.04.2023 under Annexure-8, inter alia on the ground that since Petitioner along with her application, has not submitted a valid registration certificate of the concerned employment exchange and the registration certificate so enclosed to the application has already lost its validity in the month of December, 2021, Petitioner's candidature cannot be considered.

4.5. Learned counsel appearing for the Petitioner contended that after qualifying in the physical test, when Petitioner was directed to appear for document verification, she produced the registration certificate so issued by the self-same employment exchange available at Page 37 and the other certificate so issued in her favour on 30.12.2022 available at Page 38 of the brief.

4.6. It is contended that since by the time the earlier registration certificate expired in the month of December, 2021, Covid-19 pandemic was at its peak, Petitioner could not get the same renewed and accordingly obtained a fresh certificate on 30.12.2022 in order to make the application in terms of the advertisement issued under Annexure-1. But along with her application, she did not enclose the certificate issued on 30.12.2022. But the said certificate along with the other certificate though were produced at the time of verification of the documents, but on the ground that Petitioner does not have the valid registration certificate, her candidature was rejected under Annexure-5.

4.7. Accordingly, it is contended that since because of Covid-19, Petitioner could not renew his certificate so issued earlier on 24.12.2018

with the renewal fixed during December, 2021, the fresh registration certificate so obtained by her on 30.12.2022, should have been accepted in support of her candidature. But without proper appreciation of the difficulty faced by the Petitioner in not getting the earlier certificate renewed because of Covid-19 pandemic, Petitioner's candidature was rejected.

4.8. While relying on the decision in the case of ***Pritilata Nanda*** so cited (supra), learned counsel appearing for the Petitioner relied on a decision of the High Court at Madhya Pradesh in W.P.(C) No. 13312 of 2022 disposed of on 07.12.2022. The High Court of Madhya Pradesh has held as follows in Para 3 and 18 to 21:-

> *"3. Precisely stated facts of the case are that petitioner is bonafide resident of Village Kanchapura, Tahsil, Gohad, District Bhind. In response to advertisement dated 31.12.2022 (Annexure P/1), examination form for the post of Constable (GD) Police was filled up by the petitioner. It appears from the record and submissions, petitioner had registration certificate of Employment Exchange till 01.09.2020. Thereafter, petitioner could not renew his registration certificate because of COVID-19 pandemic situation. As submitted, office/website of respondent No.4 was not functioning due to COVID-19 pandemic, therefore, he could not renew it and when he got the opportunity in April, 2022 then he got it registered afresh on 04.04.2022.*
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> *xxx xxx xxx*
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> *18. Petitioner has tried to demonstrate through GOP dated 30.07.2012 vide No.137/2012 issued under Section 12 of the*

Police Act, 1868, prior permission of State Government vide letter dated 27.07.2012 was taken. In the said GOP under Clause 2(1) सामान्य it has been referred that prior to 90 days of deposit of application form, Live Registration in any of the Employment Exchanges of State is required, but this aspect pales into oblivion in view of the discussion made above. Even otherwise, this qualification is not mandatory. It falls under General Conditions, not under Special or Mandatory one.

19. Sponsorship from employment exchange appears to be a phenomena of closed economy and limited competition whereby candidates were appointed through sponsorship by the Employment Exchange without appearing in competitive examination. Now in the era of open and competitive examinations said concept has little meaning. Apparently this was mechanism which is meant for providing employment opportunities especially at Class- IV / Class -III level and opportunity to the sons of the soil or local candidates. Here, both the petitioners appear to be bonafide resident of Madhya Pradesh (Gwalior region) therefore, this aspect may not come into way of prospects of petitioner if they stand successful in the examination.

20. Here, in the present sets of facts, one more aspect deserves consideration is the onslaught of COVID-19 pandemic and the situation arose out of it. COVID-19 pandemic was once in a century phenomena and it virtually, disrupted the proceedings to a great extent and all procedural work of the government came to a grinding halt. In such peculiar circumstances, when even Hon'ble Supreme Court has taken a lenient view in respect of application for

Limitation Act in different legal proceedings which is otherwise to be reckoned and construed strictly, then other procedural shortcomings (if they do not touch the core of the qualifications) can be dispensed with. On this ground also, petitioner has a good case on merits.

21. Respondents cannot restrict the prospect of candidate who is otherwise successful and bearing essential qualifications to move forward. Respondents are directed not to insist upon the qualification of sponsorship of registration certificate with Employment Exchange. They shall test the suitability of both the petitioners just like any other candidate on the parameters so fixed for recruitment of Constable (GD) Police. Both the petitioners shall be entitled to appear in the fray if they are otherwise eligible for the same."

4.9. It is also contended that this Court while issuing notice of the matter vide order dtd.16.01.2024, passed an interim order to the effect that in the event the posts are lying vacant, one post of Constable in GRP Kataka district, shall not be filled up till the next date.

4.10. It is also contended that as per the RTI information provided under Annexure-9, in Kataka GRP as on 31.12.2022, the vacancy was indicated at 43 and as on 31.10.2023, the vacancy was indicated at 22. It is accordingly contended that since because of Covid-19, Petitioner could not get the earlier registration certificate renewed and obtained a fresh certificate on 30.12.2022 i.e. the date of publication of the advertisement under Annexure-1, the said certificate should have been accepted in support of her candidature and rejection of her candidature on the ground that Petitioner does not have a valid registration certificate, requires

interference of this Court with a direction on the Board to recommend her name for her appointment as against the post of Constable (Civil) in GRP, Kataka.

5. Mr. S.P. Das, learned Addl. Standing Counsel on the other hand while supporting the impugned rejection contended that as provided in the advertisement issued on 30.12.2022 under Annexure-1, more particularly Para 6(f), it has been clearly indicated that the employment exchange registration certificate should have been obtained before the date of publication of the advertisement.

5.1. Since in the case in hand, the date of advertisement is 30.12.2022 and Petitioner obtained the 2nd registration certificate on 30.12.2022, it is not in terms of Para 6(f) of the advertisement. Accordingly, it is contended that since the earlier registration certificate had lost its validity in the month of December, 2021 and the 2nd certificate was obtained by the Petitioner as on the date of the advertisement, in view of the stipulation contained in Para 6(f) of the advertisement, such a certificate cannot be accepted in support of the Petitioner's candidature.

5.2. It is also contended that such a stipulation was made in the advertisement in terms of the provisions contained under the Odisha Police Service (Method of Recruitment and Conditions of Service of Constables) Order, 2021 so available under Annexure-A/2 to the counter affidavit. It is accordingly contended that candidature of the Petitioner was rightly rejected under Annexure-5, further confirmed under Annexure-8.

6. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds that pursuant to the advertisement issued on 30.12.2022 under Annexure-1 by the State Selection Board inviting application to fill up the post of Constable (Civil) in Odisha Police, Petitioner made the application as against the vacancy indicated in respect of GRP, Kataka.

6.1. As found, Petitioner along with her application enclosed the Employment Registration Certificate so obtained and available at Page 37 of the brief. The certificate was issued on 18.12.2018 and due for renewal in December, 2021. Basing on such application, Petitioner was allowed to take part in the written test and on coming out successful and on being shortlisted, she was issued with the admit card to take part in the physical test vide Annexure-4. Petitioner also in terms of Annexure-4 participated in the physical test. But as found, during verification of the documents, taking into account the fact that the registration certificate so enclosed by the Petitioner along with her application has expired in the month of December, 2021, Petitioner's application was rejected under Annexure-5.

6.2. It is found that such a rejection when was assailed by the Petitioner before this Court in W.P.(C) No. 9558 of 2023, this Court vide order dtd.03.04.2023 under Annexure-6 relying on the decision in the case of ***Pritilata Nanda*** so cited *supra* and the other decisions, quashed the rejection and directed Opp. Party No. 3 to take a fresh decision on the claim of the Petitioner. In terms of the said order, Petitioner made a fresh grievance before Opp. Party No. 3 under Annexure-7. But as found, such claim of the Petitioner to get the benefit of selection and appointment in

GRP, Kataka as against the post of Constable (Civil) was rejected by Opp. Party No. 3 vide the impugned order under Annexure-8 dtd.27.04.2023

6.3. It is the view of this Court that Petitioner along with her application submitted the registration certificate so issued in her favour earlier on 24.12.2018, available at Page 37 of the brief. The said certificate was due for renewal in the month of December, 2021. But because of Covid-19, Petitioner could not renew the same in the month of December, 2021, and accordingly obtained the fresh registration certificate on 30.12.2022 so available at Page 38 of the brief. But on the ground that Petitioner does not have the required registration certificate on the date of making the application and the certificate issued on 30.12.2022 having been issued on the date of the issuance of the advertisement, relying on Para 6(f) of the Advertisement, Petitioner's claim was not considered and rejected.

6.4. Placing reliance on the decision in the case of ***Pritilata Nanda***, it is the view of this Court that since on the face of the submission of the application along with the registration certificate so available at Page 37, Petitioner was allowed to take part in the selection process all through, her candidature could not have been rejected at the time of verification of the documents. Not only that, since Petitioner because of the extra ordinary situation arising out of Covid 19, could not renew the certificate, which lost its validity in the month of December, 2021 and obtained a fresh certificate on 30.12.2022, the said certificate should have been accepted even though it was issued on the date of advertisement under Annexure-1.

6.5. Therefore, placing reliance on the decision of the High Court at Madhya Pradesh and the decision in the case of ***Pritilata Nanda*** so cited

(supra), this Court is of the view that the ground on which Petitioner's claim was rejected initially vide Annexure-5 and confirmed vide order dtd.27.04.2023 under Annexure-8 of Opp. Party No. 3 are not sustainable in the eye of law.

6.6. Therefore, this Court inclined to quash the rejection of the Petitioner's candidature on the ground indicated in Annexure-5 and 8 and quash the same accordingly. While quashing the same, this Court directs Opp. Party No. 3 to accept the registration certificate of the Petitioner so produced and obtained by her on 30.12.2022 and take a fresh decision with regard to selection of the Petitioner and recommend her name, if the Petitioner is found eligible in all respect.

6.7. Taking into account the nature of the interim order passed by this Court and the vacancy available under Annexure-9 so obtained by the Petitioner under RTI, this Court directs Opp. Party No. 1 to provide appointment to the Petitioner, if her name is recommended by the Board-Opp. Party No.3. This Court directs Opp. Party Nos. 1 & 3 to complete the entire exercise within a period of two (2) months from the date of receipt of this order.

6.8. However, it is observed that Petitioner if will be provided with the appointment, she will not claim any benefit of seniority vis-à-vis her batchmates who have already got the benefit of appointment and Petitioner be treated as a new appointee in the rank of Constable (Civil) in GRP, Kataka.

7. With the aforesaid observation and direction, the writ petition stands disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Orissa High Court, Cuttack
Dated the 5th November, 2026/Sneha

Signature Not Verified
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Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 11-Nov-2026 12:04:55