



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.3394 of 2024

Laxmikanta Pradhan

.....

Petitioner

Mr. G.R. Sethi, Advocate

-versus-

State of Odisha & Ors.

.....

Opposite Parties

Mr. P.K. Panda, ASC

CORAM:

THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

26.02.2026

Order No.11

1. This matter is taken up through hybrid mode.
2. Heard Mr. G.R. Sethi, learned counsel appearing for the Petitioner and Mr. P.K. Panda, learned Addl. Standing Counsel appearing for the Opp. Parties.
3. Pursuant to order dtd.05.12.2025, learned Addl. Standing Counsel produced the instruction so issued by Opp. Party No. 5 vide his letter dtd.20.02.2026 in Court. The same be kept in record.
4. Basing on the instruction it is contended that all the 16 posts meant for Group-D employee pursuant to the advertisement issued on 30.12.2022 under Annexure-1 was filled up in respect of Angul district vide order dtd.17.04.2023 so enclosed to the counter affidavit vide Annexure-B/5.
5. The present writ petition has been filed inter alia with the following prayer:-

“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 quash the order dt.7.9.2023 under Annexure-9.*
- ii. To quash the order dt.30.11.2023 under Annexure-10.*
- iii. To quash the order dtd.31.01.2024 which is served on the petitioner on 5.2.2024 under Annexure-5 series.*
- iv. To direct the Opposite Parties to appoint the petitioner as constable (Civil) against Group-D category in Angul District.*
- v. To direct the Opposite Parties to grant all financial and consequential benefits from the date when candidates securing less mark than the petitioner and similarly situated candidates have got appointment.*
- vi. And pass such other order/orders as may be deemed fit and proper for the interest of justice.*

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

6. It is contended that pursuant to the advertisement issued on 30.12.2022 under Annexure-1, Petitioner though was otherwise eligible to get the benefit of appointment as against the post of Constable (Civil) being a Group D employee, but he was found ineligible as the qualifying service fell short by 60 days, because of the nature of order passed while regularizing 92 days of overstay leave of the Petitioner.

6.1. It is contended that challenging such action of the Opp. Parties in not considering the case of the Petitioner for his appointment as against the post of Constable out of the 10% posts reserved for Group-D employees pursuant to Annexure-1 advertisement, Petitioner approached this Court by filing W.P.(C) No. 12202 of 2023. This Court vide order dtd.20.04.2023 while directing the



State Counsel to obtain instruction, passed an interim order that one post of Constable (Civil) 2020 in respect of Angul district belonging to Group-D category pursuant to advertisement under Annexure-1 shall not be filled up till the next date. However, the said writ petition was finally disposed of vide order dtd.04.05.2023 under Annexure-7 with the following direction so contained in Para 9:-

“9. Considering the aforesaid facts of the case, this Court deems it proper to dispose of the writ petition at the stage of admission directing the petitioner file a representation before the Commandant, OSAP 4th (SS) Bn., Malkangiri-Opposite Party No.5 for regularization his service period i.e. sixty days “NO PAY” period. In the event same is regularized, the petitioner eligibility to appointment to the post of constable (Civil) subject to that otherwise he is eligible to other eligibility criteria. Accordingly, Commandant, OSAP 4th (SS) Bn., Malkangiri-Opposite Party No.5 is directed to consider the representation of the petitioner and pass necessary order in accordance with law for regularizing period i.e. sixty days “NO PAY” and in view of the discussion hereinabove within a period of two weeks from the date of production of representation along with certified copy of this order by the petitioner, Opposite Party No.5 is further directed to communicate the decision to the Chairman of the State Selection Board-Opposite Party No.4. Accordingly, the candidature of the petitioner be reconsidered for appointment of constable(Civil) in Angul district. The entire exercise shall be completed within a period of one month.”

6.2. Pursuant to such order passed by this Court, the over-stay leave period of 92 days, out of which 60 days was earlier treated as no



pay, was modified and treated as extra ordinary leave on M/C (Medical Certificate). It is contended that in view of the nature of order passed under Annexure-8, the ground on which Petitioner's candidature was rejected because of short fall of 60 days qualifying service was wiped out and Petitioner became entitled to get the benefit of appointment pursuant to Annexure-1. Not only that while complying the order so passed by this Court, an order under Annexure-9 was passed on 07.09.2023, to the following effect:-

"We may clarify as on the date of the application whether he had qualifying length of service. If yes, he is eligible. If no, he is ineligible for appointment."

6.3. Learned counsel appearing for the Petitioner contended that taking into account the fact that Petitioner was held disqualified because of treating the period of leave of 60 days as no pay, in view of the order passed under Annexure-8 on 04.08.2023, Petitioner became eligible and entitled to get the benefit of appointment. However, such benefit of appointment pursuant to Annexure-1 advertisement was never extended and all those 16 posts meant for Group D employees, was filled up from other category candidates, save and except 1, who was found eligible from amongst those Group-D employees vide order dtd.17.04.2023 so enclosed as Annexure-B/5 to the counter affidavit.

6.4. Learned counsel appearing for the Petitioner contended that since 16 posts was reserved for Group-D employees in respect of Angul district basing on the advertisement issued under Annexure-1 and taking into account the nature of order passed under Annexure-8, Petitioner became eligible to get the benefit. But since all those posts were filled up from outside candidates, save and except 1



from amongst Group-D employees, the order under Annexure-9 could not have been passed. Instead Petitioner should have been provided with the appointment as against the post of Constable. Accordingly, it is contended that while quashing the order at Annexure-9, appropriate direction be issued to Opp. Party Nos. 3 & 5 to provide appointment to the Petitioner as against the post of Constable in respect of Angul district in terms of the advertisement issued under Annexure-1.

7. Learned Addl. Standing Counsel on the other hand made his submission basing on the stand taken in the counter affidavit so filed by Opp. Party No. 5. It is contended that admittedly pursuant to Annexure-1 advertisement and by the time candidature of the Petitioner was considered, he was not eligible as the required qualifying service fell short by 60 days. Even though pursuant to the order passed by this Court on 04.05.2023 in W.P.(C) No. 12202 of 2023 under Annexure-7, such over stay leave period of 60 days earlier treated as 'No Pay', was treated as extra-ordinary leave and Petitioner became eligible to get the benefit, but by the time the writ petition was disposed of, with passing of the order dtd.04.08.2023, all the 16 posts meant for Group-D employees had already been filled up vide order dtd.17.04.2023 under Annexure-B/5.

7.1. Since prior to passing of the interim order by this Court on 20.04.2023 under Annexure-6 and the final order passed vide order dt.04.05.2023 under Annexure-7, all the posts had already been filled up vide order dtd.17.04.2023, Petitioner's claim to get the benefit of appointment could not be considered. It is however fairly contended that out of those 16 posts meant for Group-D employees, since no eligible Group-D candidates were found, save and except 1



(one), all those posts were filled up by appointing 1 (one) eligible Group-D employee and rest fifteen (15) from candidates belonging to other category. It is accordingly contended that since all the posts pursuant to Annexure-1 advertisement had already been filled up prior to disposal of the writ petition on 04.05.2023, there is no scope to provide appointment to the Petitioner and the same was rightly dealt with vide order under Annexure-9. It is further contended that since as on the date of consideration, Petitioner was not having the required qualifying service, no illegality or irregularity can be found with regard to his exclusion from the purview of selection and appointment. Making all these submission, learned Addl. Standing Counsel contended that order at Annexure-9 has been rightly passed.

8. Having heard learned counsel appearing for the Parties and considering the submission made, this Court finds that pursuant to the advertisement issued under Annexure-1 for recruitment of Constable (Civil) in Odisha Police, Petitioner being a Group-D employee, made his application in respect of Angul district.

8.1. It is not disputed that in respect of Angul district, 16 posts were reserved for such Group-D employees. However, and which is not disputed, Petitioner's candidature was not considered, since if he was not having the required qualifying service and such qualifying service fell short by 60 days. But pursuant to order dtd.04.05.2023 so passed by this Court in W.P.(C) No. 12202 of 2023 under Annexure-7 and consequential order dtd.04.08.2023 so passed under Annexure-8, the short fall qualifying service was wiped out.

8.2. Even though Petitioner became eligible having the required qualifying service, but by the time such order was passed under



Annexure-8 and which is not disputed, all the 16 posts had already been filled up in respect of Angul district by one (1) eligible Group-D employee and rest 15 (fifteen) by candidates belonging to other category. Taking into account the nature of order passed by this Court on 04.05.2023 under Annexure-7 and further order passed on 04.08.2023 under Annexure-8, it is the view of this Court that since Petitioner became eligible to get the benefit of appointment as a Group-D employee and out of 16 posts so meant for Group-D employees, 15 posts have been filled up from candidates belonging to other category, this Court is of the view that Petitioner's candidature is required to be considered afresh in respect of any available vacancy, which may have arisen in the meantime in Angul district.

8.3. Therefore, this Court while holding so with quashing of the order at Annexure-9, directs Opp. Party Nos. 3 & 5 to consider the claim of the Petitioner as against any available vacancy against the post of Constable (Civil) taking into account the nature of order passed by this Court under Annexure-7 and the order passed under Annexure-8. This Court directs Opp. Party Nos. 3 & 5 to take a fresh decision as directed within a period of three (3) months from the date of receipt of this order with due communication to the Petitioner.

9. The writ petition accordingly stands disposed of with the aforesaid observation and direction.

(BIRAJA PRASANNA SATAPATHY)
Judge

Sneha