



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) Nos. 17750 & 17749 of 2021

Sanjib Kumar Mahali

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Petitioner

Mr. S.K. Mishra, Sr. Advocate
along with
Mr. S.K. Sethi, Advocate

-versus-

State of Odisha & Ors.

.....

Opposite Parties

Mr. A. Tripathy, AGA

CORAM:

THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

23.02.2026

Order No. 09

1. This matter is taken up through hybrid mode.
2. Since the issue involved in both the writ petitions is identical, both the writ petitions are heard analogously and disposed of by the present common order.
3. Heard Mr. S.K. Mishra, learned Sr. Counsel appearing for the Petitioners along with Mr. S.K. Sethi, learned counsel and Mr. A. Tripathy, learned Addl. Govt. Advocate appearing for the Opp. Parties.
4. Both the writ petitions have 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 dtd.30.4.2021 under Annexure-2*



ii) To direct the opposite Parties to allow the petitioner to appear trade test board in the trade of Motor Mechanic Fitter.

iii) To direct the opposite parties to consider the case of petitioner for promotion to the rank of ASI from the date his junior has been promoted.

iii) To pass such other orders /orders as would deem fit and proper;

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

5. It is contended that Petitioners though which is not disputed, were recruited as Helper Constable (Welder), but since they could not get the benefit of promotion to the rank of ASI in the relevant trade, they made an application to change their trade to Fitter trade, so that they can get the benefit of promotion to the rank of ASI in the Fitter trade. But such prayer of the Petitioners was rejected vide order dtd.30.04.2021 in both the cases.

5.1. While assailing the impugned rejection, learned Sr. Counsel appearing for the Petitioners contended that, similar benefit of change of trade with extension of the benefit of promotion was allowed in favour of one Biswajit Khuntia vide order td.09.10.2018 under Annexure-3. The said Biswajit Khuntia though originally belongs to Bench Fitter Trade, but he was given the benefit of promotion to the rank of ASI in Turner Trade. But on the face of such benefit being extended with change of trade in favour of the aforesaid Biswajit Khuntia vide order under Annexure-3, similar prayer made by the Petitioners was rejected vide the impugned order dtd.30.04.2021 and that too without assigning any plausible reason.



5.2. Learned Sr. Counsel appearing for the Petitioners also contended that there is no such bar under Rule 20 of the Odisha Police Motor Transport, Technical trade (Method of Recruitment and Conditions of service of Helper Constable) Rules, 2014 for change of trade in order to get the benefit of promotion from the rank of Helper Constable to the rank of ASI in different Technical trade. Rule 20 of the Rules reads as follows:-

“20. Eligibility Criteria:-

1) The post of Inspector (in different Technical Trades) shall be filled up by way of promotion from the post of Sub-Inspector (in different Technical Trades) who have completed 3 years of service or confirmed in their respective ranks as after being qualified in the Technical Trade Test.

(2) (A) The post of Sub-Inspector (in different Trades) shall be filled up by way of promotion from the post of Assistant Sub-Inspector of Police of Police Motor Transport of the respective trades who have completed 3 years of service or confirmed in that rank as Assistant Sub-Inspector after being qualified in the Technical Trade Test:

Provided that the Assistant Sub-Inspector (in different Technical Trades) of Police Motor Transport of any trade may change their own trade at this stage for promotion to higher rank provided they qualify in the prescribed Technical Trade Test for the post and are duly selected by the Promotional Selection Board for such post:

Provided further that the seniority of such Assistant Sub-Inspectors (in different Technical Trades) of Police Motor Transport, who change their trade as per the provision of the first proviso shall be fixed below the



Assistant Sub-Inspector of Police Motor Transport of that trade selected for promotion in that year.

(3) The posts of Assistant Sub-Inspector (in different Technical Trades) of Police Motor Transport (in all Trades) shall be filled up by promotion from among the post of Helper Constables of Police Motor Transport having completed 5 years of service after passing the Constable's Course of training and subjected to qualifying the Technical Trade Test.”

5.3. It is accordingly contended that since in the relevant recruitment Rule, there is no such bar for change of trade to get the benefit of promotion to the rank of ASI, and admittedly Petitioners were deprived to get the benefit of promotion in their trade due to non-availability of vacancy in the rank of ASI, Petitioners should have been allowed change of trade to get the benefit of promotion to the rank of ASI in Fitter trade, where 27 vacancies are available. In support of such vacancies available at present, reliance was placed to the affidavit filed by the Opp. Party No. 3, pursuant to order dtd.01.09.2025 of this Court. Stand taken in Para 3 of the affidavit dtd.11.09.2025 reads as follows:-

“3. That it is humbly submitted that at the time of promotion of similar persons there was 41 posts of Fitter ASI lying vacant out of which 14 posts had been filled up by way of promotion in the year 2018 and 27 posts lying vacant due to non availability of candidates in Fitter Trade.”

5.4. It is also contended that since there is vacancy available in the rank of ASI in Fitter trade and there is no bar for such change of trade, as provided under Rule 20 of the aforesaid Rules, rejection of the Petitioners' claim to get the benefit of promotion as ASI in the



Fitter trade with change of trade vide the impugned order dt.30.04.2021 is not sustainable in the eye of law and requires interference of this Court.

5.5. A further submission was also made that at present there is no further recruitment of Helper Constable and only the present Petitioners are there who can get the benefit of promotion, if they are allowed such change of trade.

6. Mr. A. Tripathy, learned Addl. Govt. Advocate on the other hand made his submission in support of the impugned rejection basing on the stand taken in the counter affidavit filed by Opp. Party No. 3, reply filed by the said Opp. Party No. 3 to the rejoinder filed by the Petitioners and the affidavit filed pursuant to order dtd.01.09.2025 of this Court.

6.1. It is contended that since as against the post of Helper Constable in Welder trade, there is promotional avenue and because of filling up of the promotional posts, Petitioners could not get the benefit of promotion, their prayer for change of trade, so that they can get the benefit of promotion in Fitter trade in the rank of ASI was not allowed vide the impugned order dtd.30.04.2021.

6.2. It is also contended that in the relevant Rule, there is no such provisions for change of trade in order to enable a Helper Constable of a particular trade to get the benefit of promotion in another trade in the rank of ASI of Police. It is further contended that the aforesaid Biswajit Khuntia, was given the benefit of promotion as no such promotional avenue is there in his trade i.e. Bench Fitter Trade. It is accordingly contended that since there is promotional avenue for Welder trade and there was no vacancy available in the rank of ASI



in the said trade, claim of the Petitioners for change of trade in order to get the benefit of promotion to the rank of ASI in Fitter trade has been rightly rejected. Stand taken in Para 11 of the counter affidavit reads as follows:-

“That in reply to the averments made in Para-13 of the writ petition it is humbly submitted that, junior to the petitioner Biswajit Khuntia has passed I.T.I. in Bench Fitter Trade, the Bench Fitter Trade Promotional avenue is not available in PMT Establishment, hence he was allowed to appear the T.T.B. in Turner Trade and promoted to the rank of ASI (Turner). The petitioner was not allowed to change his trade because he has passed I.T.I. in Welder Trade. Promotional avenue are available for Welder Trade. Out of total Sanctioned post Welder ASI only 01 (one) post of Welder ASI is meant for S.C. category. The said one post has recently been filled up by one of the senior of the petitioner. The applicant belongs to S.C. category and there is no Welder ASI post available to provide Promotion to the petitioner. Hence the petitioner was not allowed Promotion to the rank of Welder ASI. His prayer to appear the T.T.B. in Fitter (Motor Mechanic) trade may kindly be rejected being devoid of any merit.”

It is accordingly contended that no illegality or irregularity can be found with the impugned order.

7. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds that both the Petitioners were appointed as Helper Constable in Welder Trade. It is not disputed that there is promotional avenue for such trade in the rank of ASI of Police. But Petitioners could not get the benefit of



promotion due to filling up of the promotional posts by suitable candidates.

7.1. It is also found that benefit of change of trade has been allowed in favour of candidate, where there is no such promotional avenue in the particular trade. But considering the provisions contained under Rule 20 of the aforesaid Rules and the fact that there is no further recruitment of Helper Constable in the State and there are vacancies in the rank of ASI of Police in Fitter trade so admitted by Opp. Party No. 3 in his affidavit dtd.01.09.2025, this Court while disposing the writ petition with quashing of order dt.30.04.2021 in both the cases, directs Opp. Party No. 2 to take a fresh decision on the Petitioners' claim for change of trade in order to get the benefit of promotion to the rank of ASI in Fitter trade. This Court directs Opp. Party No. 2 to take a fresh decision taking into account the observation made hereinabove within a period of two (2) months from the date of receipt of this order and communicate the result of such exercise to the Petitioners.

8. Both the writ petitions accordingly stand disposed of.

Photo copy of the order be placed in the connected case record.

(BIRAJA PRASANNA SATAPATHY)
Judge

Sneha