

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.A. No.488 of 2021**

<i>Akshay Kumar Sahu</i>	....	<i>Appellant</i>
Mrs. Pami Rath, Advocate		
-versus-		
<i>North Eastern Electricity Supply Company of Orissa Ltd. (NESCO) &amp; Others</i>	....	<i>Respondents</i>
Mr. P.K. Tripathy (For NESCO) Mr. Goutam Mishra, Senior Advocate along with Mr. Asim Ku. Dash, (For Caveator)		

**CORAM:  
THE CHIEF JUSTICE  
JUSTICE S.K. PANIGRAHI**

**ORDER  
14.07.2021**

**Order No.**

02.

1. This matter is taken up by video conferencing mode.

2. Mrs. Pami Rath, learned counsel for the Appellant points out that there was a provisional gradation list circulated on 8<sup>th</sup> December, 2006 for the post of Assistant Manager (Finance), E-3 Grade in which the present Appellant was shown senior to Respondent No.5 (the writ petitioner) and that admittedly Respondent No.5 did not object to the provisional gradation list at that stage. Much after the final gradation list was published on 2<sup>nd</sup> November, 2007, Respondent No.5 raised an objection on 12<sup>th</sup> August, 2008. This fact, according to Mrs. Rath, was suppressed by him in the writ petition. She further points out

that in the meanwhile, on 2<sup>nd</sup> November, 2004 an Office Order was issued by Respondent No.1-NESCO promoting three persons, including the Appellant and Respondent No.5 as Deputy Manager (Finance) E-4 Grade, in which again the name of the present Appellant figured above the name of Respondent No.5 and he was therefore accepted as being senior to Respondent No.5. It is submitted that these facts have not been taken into account by the learned Single Judge who has by the impugned order directed that the Gradation List for E-3 Grade be redrawn by showing Respondent No.5 above the Appellant.

3. Issue notice. Mr. Asim Kumar Dash, learned counsel on behalf of Respondent No.4 and Mr. P.K. Tripathy, learned counsel for NESCO accept notice.

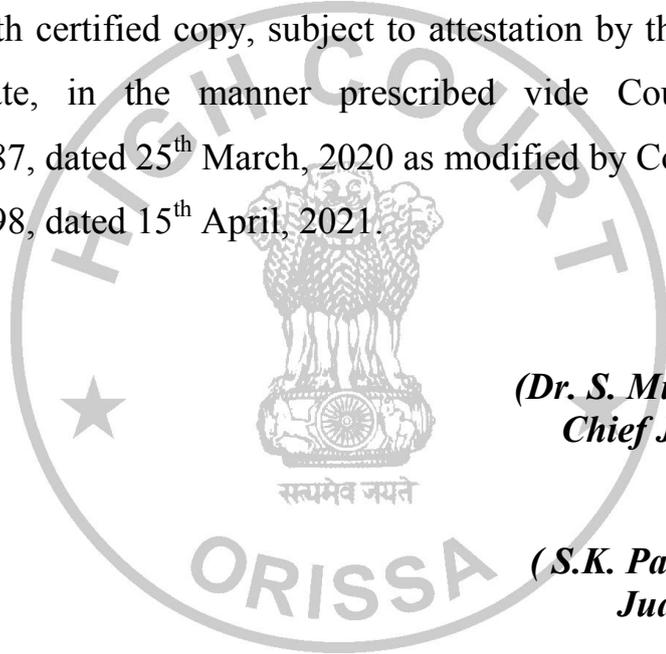
4. There is a dispute whether the impugned order has been implemented. Both the learned counsel for NESCO and Respondent No.5 states that it has while Mrs. Rath, learned counsel for the Appellant disputes it. In the circumstances, it is directed that status quo as on today be maintained by the parties.

5. It is stated that since NESCO has been renamed as Tata Power Northrn Odisha Distribution Limited which is now arrayed as Respondent No.6 in this appeal.

6. Notice be issued to Respondent Nos.5 and 6 by Registered post with A.D. returnable by the next date. Requisites be filed within three days.

7. List for final hearing on 1<sup>st</sup> November, 2021.

8. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25<sup>th</sup> March, 2020 as modified by Court's Notice No.4798, dated 15<sup>th</sup> April, 2021.



**(Dr. S. Muralidhar)**  
**Chief Justice**

**(S.K. Panigrahi)**  
**Judge**