

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.25137 of 2022

I.A. No.13252 of 2022

P. Kumar & Ors.

....

Petitioners

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

29.09.2022

Order No

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Ms. Pami Rath, learned counsel for the Petitioners and Mr. A.K. Parija, learned Advocate General along with Mr. S.K. Das, learned counsel for the Private Opp. Party Nos.10 & 15 and Mr. Trilochan Rath, learned counsel appearing for O.P. No. 47.

3. This writ Petition has been filed challenging the action of the Opp. Party No. 1 in calling for the status of the Vigilance/Criminal Cases in respect of OAS Group-A(JB) for consideration of their promotion to the grade of OAS Group-A(SB) vide communication dtd.21.09.2022 under Annexure-8.

4. It is the submission of Ms. Rath, learned counsel for the Petitioners that challenging the final gradation list of OAS Group-A(JB) published on 08.03.2019 under Annexure-4, the Petitioners challenging their placement approached this Court in W.P.(C) No.19346 of 2019.

5. It is submitted that vide order dtd.29.07.2021 this Court permitted the Petitioners to make fresh representation ventilating their grievance before the O.P. No. 1 and for its consideration by affording opportunity of hearing to all the Parties concerned. It is submitted that pursuant to the said order passed by this Court under Annexure-5 Govt.-O.P. No. 1 vide order dtd.15.11.2021 under Annexure-6 held as follows:-

“Now therefore, in the ultimate analysis of the facts and circumstances as made above, the inter se seniority of promotion recruits of 2015 batch of OAS-JB officers (who joined during the year 2015) over the direct recruit officers of 2011 batch (post advertised in 2011 but joined in government service in 2016 & 2018) is decided and accordingly, the gradation list of OAS Gr.A(JB) officers published on 08.03.2019 be revised with necessary approval of Government.”

6. It is submitted that basing on the said order when a tentative gradation list of OAS-Group A(JB) was published under Annexure-7, the Private Opp. Parties challenging the same approached this Court in W.P.(C) Nos.36490 of 2021 and 36470 of 2021.

7. Ms. Rath, learned counsel for the Petitioner submitted that though pursuant to the order passed by this Court under Annexure-5 and consequential order passed under Annexure-6 the tentative gradation list was published under annexure-7, which is the matter of challenge in W.P.(C) Nos.36490 of 2021 and 36470 of 2021, the Opp. Parties more particularly O.P. No. 2 when issued the impugned communication under Annexure-8 on the subject indicated hereinabove prior to finalization of the gradation list of OAS-Group A(JB), the Petitioners apprehending denial of promotion approached this Court in the above said writ Petitions. It

is submitted that prior to the finalization of the gradation list no promotion should be given to the OAS-Group A(SB).

8. Mr. S.K. Das, learned counsel appearing for the Private Opp. Parties along with Mr. Trilochan Rath submitted that since the tentative gradation list published under Annexure-7 is under challenge in the above noted two writ Petitions and this Court while issuing notice of the matter has passed an interim order that any promotion to OAS Group-A(SB) shall be subject to result of the writ Petition, the Petitioners will no way be affected, if promotion is given from eligible OAS Group-A(JB) to the grade of OAS Group-A(SB).

9. Mr. A.K. Parija, learned Advocate General appearing for the State in view of the interim order passed by this Court on 24.09.2022 submitted that at present there are 322 vacancies in the grade of OAS-Group A(SB) and the Petitioners, who are placed along with the Private Opp. Parties in both the gradation list published under Annexure-4 as well as under Annexure-7 will get the benefit of promotion as they are coming within the zone of consideration taking into account the available vacancies at 322.

10. Mr. Parija, learned Advocate General also submitted that the Petitioners as well as the Opp. Parties belonging to the two groups since will be extended with the benefit of promotion, no apprehension should be there regarding denial of the said benefit. It is also submitted that even though during pendency of the writ Petitions promotions will be extended in the grade of OAS Group-A(SB), it will not confer any equity in favour of any of the promotees and such stipulation will be indicated in the order of promotion. It is also submitted that all promotions given to OAS

Group-A(SB) shall be subject to the final result of all the writ Petitions.

11. Having heard learned counsel for the Parties and after going through the materials available on record as well as the submission made by the learned Advocate General that as against the available vacancies of 322 in OAS Group-A(SB) since the Petitioners of both the Groups i.e. Direct Recruits of 2011 and Promotees of 2015 will all be accommodated with extension of promotion, this Court in modification of its order dtd.24.09.2022 pass the following order:-

“(i) The promotion given from OAS Group-A(JB) to OAS-Group A(SB) during pendency of the matter will not confer any equity in favour of any of Promotees and that will be subject to the final outcome of all the writ Petitions to be heard analogously by this Court.”

“(ii) The aforesaid stipulation shall be indicated in the order of promotion also.”

13. As requested by all the Parties, list this matter in the week commencing 14th November, 2022, by which time counter affidavit by the State be filed positively in all the cases.

14. List this matter in the week commencing 14th November, 2022.

(Biraja Prasanna Satapathy)
Judge

Sneha