



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.29767 of 2020

Ramesh Chandra Pradhan **Petitioner**
Mr. M.K. Khuntia, Advocate

-Versus-

DG & IG of Police, Odisha, ... **Opposite Parties**
Cuttack and another
Ms. B. Dash, ASC

W.P.(C) No.29770 of 2020

Fanindra Bishi **Petitioner**
Mr. M.K. Khuntia, Advocate

-Versus-

DG & IG of Police, Odisha, ... **Opposite Parties**
Cuttack and another
Ms. B. Dash, ASC

W.P.(C) No.29773 of 2020

Santosh Kumar Patel **Petitioner**
Mr. M.K. Khuntia, Advocate

-Versus-

DG & IG of Police, Odisha, ... **Opposite Parties**
Cuttack and another
Ms. B. Dash, ASC



W.P.(C) No.29774 of 2020

Sudhansu Sekhar Sai **Petitioner**
Mr. M.K. Khuntia, Advocate

-Versus-

DG & IG of Police, Odisha, ... **Opposite Parties**
Cuttack and another
Ms. B. Dash, ASC

And

W.P.(C) No.31685 of 2020

Ashish Kumar Bagarty **Petitioner**
Mr. M.K. Khuntia, Advocate

-Versus-

DG & IG of Police, Odisha, ... **Opposite Parties**
Cuttack and another
Ms. B. Dash, ASC

CORAM:
MR. JUSTICE R.K. PATTANAIK

ORDER
14.07.2025

Order
No.

07.

1. Heard Mr. Khuntia, learned counsel for the petitioners and Ms. Dash, learned ASC for the State.

2. Instant writ petitions are filed by the petitioners assailing the impugned decision by order dated 31st October,



2020 as at Annexure-9 and further to direct the opposite parties to allow them to continue as Havildars on the grounds stated therein.

3. Mr. Khuntia, learned counsel for the petitioners submits that the petitioners were duly selected and appointed being Constables on 6th November, 2002 and posted in the district of Balangir and in the meantime, having completed three years of service after such recruitment and being under the age of 35 years were allowed to appear in the District Drill Test (DDT) for promotion to the rank of Lance Naik. The submission is that the petitioners along with 31 other Constables appeared the DDT held on 31st January, 2014 and they were declared successful. The further submission is that the DDT was conducted for promotion to the rank of Lance Naik against 11 vacancies and a select list by order dated 2nd February, 2014 was prepared. After such promotion to the rank of Lance Naik, the petitioners were reverted to the post of Constables by order dated 31st October, 2020 at Annexure-9 on the premise that the same was in contravention of the Police Order No.266/81 (in short, 'the Police Order') and the ORV Act. Referring to a copy of the said Police Order as at Annexure-10, Mr. Khuntia, learned counsel would submit that for promotion to the rank of Lance Naik from among the Constables, a select list was to be prepared one half times of the total vacancies. It is contended that such select list was not prepared in accordance with the Police Order. It is further contended that had the select list been prepared in accordance therewith, the petitioners would not



have suffered the reversion as it was to remain valid till exhausted or renewed by the next Board. Referring to the said Police Order, it is submitted that the petitioners were found eligible having been promoted to the post of Lance Naik as they fulfilled all the criteria and conditions required having put in three years of service after such recruitment and below 35 years of age and cleared the DDT without having any adverse service record but unfortunately, after six years from the date of such promotion vide Annexure-2, the reversion has taken place in view of the decision by the Board vide Annexure-9 and hence, the same is unfair, unreasonable and illegal for being not in accordance with the Police Order at Annexure-10 and therefore, necessary direction is required to be issued for reconsidering such reversion followed by a decision within a stipulated period.

4. Referring to the counter affidavit filed by the opposite parties, Ms. Dash, learned ASC for the State would submit that the selection and promotion shall have to be considered in terms of the Police Order and for the said purpose, the list shall have to be prepared as per the original seniority. The further submission is that since the select list prepared as per Annexure-2 was not in accordance with the Police Order and Rule 13 of the Odisha Police Service (Method of Recruitment and Conditions of Service of Constable) Order, 2010 (hereinafter referred to as 'the Order, 2010'), it was hence reviewed and as a result, the revision was directed that of the petitioners. Any such selection list at the time of promotion



since was not in consonance with the original seniority list prepared at the time of selection to the post of Constables and by not following the ORV Act, while considering the same, the Board reviewed the selection by a decision as per Annexure-H/2 with retrospective effect from 2nd February, 2014.

5. In course of hearing, referring to Annexure-11 of the rejoinder affidavit, Mr. Khuntia, learned counsel for the petitioners submits that a selection list to the post of Lance Naik from eligible Constables is required to be one and half times of the total vacancies and it has been duly followed in respect of a selection of the year 2018 and published in 2022 and therefore, in the instant case, even if the select list was reviewed by the Board, had there been such a list as per the Police Order, the petitioners could not have been reverted. That apart, the contention of Mr. Khuntia, learned counsel is that with such reversion having taken place, the petitioners are not eligible anymore for promotion to the rank of Lance Naik being age barred. In support of the contentions advanced, Mr. Khuntia, learned counsel relies on the following decisions, such as, **Pratima Sahoo Vrs. State of Orissa and others 2021 (I) OLR 174** with a further submission that the petitioners are not at fault they having faced the selection for promotion to the rank of Lance Naik but reverted after six years. A decision of this Court in **Purna Chandra Hota and others Vrs. Sambalpur University and others 2019 (I) OLR 5** is also placed reliance on by Mr. Khuntia, learned counsel to contend that natural justice has not been followed as such a reversion



has been directed without providing an opportunity of hearing to the petitioners. Two more decisions are cited, namely, **BCPP Mazdoor Sangh and another Vrs. NTPC and others** in Appeal (Civil) No.678 of 2006 and **Rajendra Vrs. State of Maharashtra and others (2008) 11 SCC 90** and it is contended that such reversion of the petitioners after so many years upon being promoted to the post of Lance Naik is unreasonable and against the law.

6. Upon a proper reading of the Police Order as at Annexure-10, it is made to understand that from the candidates in the zone of consideration to appear the test to be held six times the total number of existing and anticipated vacancies in the rank of Lance Naik and finally the select list shall have to be prepared as per the original select list and should not be more than one and half times of the vacancies up-to January next year. The other conditions are to be fulfilled, while considering promotion to the rank of Lance Naik, such as, a Constable must put in three years of service after such recruitment and was below 35 years of age and also cleared the DDT having a good service track record.

7. In so far as the case of the petitioners are concerned, they were found eligible to appear the test for promotion to the rank of Lance Naik having fulfilled all the criteria as stipulated in the Police Order. The only ground of reversion to the post of Constables is that the selection as was held earlier was not followed in terms of the Police Order and Rule 13 of the Order, 2010. Mr. Khuntia, learned counsel for the petitioners submits



that the selection of other candidates is not under challenge, however, as the select list has not been prepared in accordance with the Police Order with one and half times of the total vacancies, the petitioners have suffered the reversion otherwise should have been considered for promotion with such a list prepared in accordance therewith for being valid till exhausted or reviewed. Admittedly, the vacancy position stood at 17, hence, the selection list should have been prepared one and half times in view of the Police Order. In so far as the contention of Ms. Dash, learned ASC for the State is concerned, not doubt, the select list has been reviewed but it was consequent upon directions issued by this Court so revealed from Annexure-H/2. The select list prepared by the Board reveals that 11 candidates were recommended after having cleared the DDT for promotion to the rank of Lance Naik and it was with retrospective effect from 2nd February, 2014. The Court is in agreement with Ms. Dash, learned ASC for the State that any such selection for the post of Lance Naik by a promotion shall have to be according to the Police Order with the plea that such select list was not prepared keeping in view the original seniority at the time of initial recruitment to the post of Constables but at the same time, is of the view that the select list as was prepared vide Annexure-2 and though reviewed thereafter ought to have been one and half times of the total vacancies available at the relevant point of time. The Court is also the view that since the petitioners were found in the select list and in the review select list stood excluded, had there been a list prepared upon such review in terms of the Police Order



regard being had to one and half times of the total vacancies available with reference to the year of selection i.e. 2014, it could not have resulted in the reversion.

8. In so far as the case law cited in **Purna Chandra Hota** (supra), this Court held and concluded that natural justice should be followed as it stands for fundamental quality of fairness which is being adopted on the principles that justice not only be done but also appears to be done and in the case at hand, such a reversion was directed after six years of service in the rank of Lance Naik and it was without providing any opportunity of hearing to them. The elementary principles of natural justice that a person should not be condemned unheard should have been kept in view while considering such reversion of the petitioners even though a review Board was held and select list was prepared. Similarly, this Court in **Pratima Sahoo** (supra), it has been held that doctrine of promissory estoppels to apply in the facts and circumstances of the case and order of disengagement was passed after the petitioner therein was selected to the post of Sikshya Sahayak and referring to the same, it is contended by Mr. Khuntia, learned counsel that the case of the petitioners should not have suffered the reversion. Similarly, the Apex Court in **Rajendra** (supra) held and observed that any such withdrawal of approval for appointment after seventeen months without giving an opportunity of hearing to the affected person and disclosing the reason therefor, the action is in violation of natural justice and hence, not sustainable in law. Having regard to the above cited



case laws and submission of learned counsel for the respective parties, the Court is of the conclusion that though the selection was held to the posts of Lance Naik in the year 2014 and at last, reviewed in 2020 by the Board and it was in respect of 11 Constables carrying retrospective effect, since such Constables being promoted with the list prepared, the select list ought to have been in terms of the Police Order at Annexure-10 of course keeping view the original seniority prepared at the time of recruitment. Since the petitioners have become over aged and would not be eligible for further promotion to the posts of Lance Naik after such reversion, the Court is of the further view that the select list even by a review of the Board should have been one and half times of the total vacancies available. Such is the view of the Court for the reason that a select list prepared in any such manner according to the Police Order would be valid till it is exhausted or reviewed and with such a select list if had been prepared considering one and half times of the total vacancies available by then, the petitioners would not have suffered the reversion and could have been considered for promotion with the select list being alive and therefore, a direction is required to be issued to opposite party No.2 to consider the same and to take a decision within a stipulated period without affecting the interest of other selected candidates already promoted and only upon providing an opportunity of hearing to all concerned.

9. Accordingly, it is ordered.



10. In the result, the writ petitions stand disposed of with the direction as aforesaid to be complied with by opposite party No.2 considering a select list to be prepared in accordance with the Police Order as at Annexure-10 keeping in view of the conditions contained therein with one and half times of the total vacancies available as on 2nd February, 2014 and to allow the same to have a retrospective effect. It is further directed that such decision shall be taken at the earliest preferably within a period of eight weeks from the date of receipt of a copy of this order keeping view the observations and discussions made herein above.

11. Issue urgent certified copy of this order as per rules.

(R.K. Pattanaik)
Judge

TUDU

Signature Not Verified

Digitally Signed
Signed by: THAKURDAS TUDU
Reason: Authentication
Location: OHC, CTC
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