



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 2522 of 2024

State of Odisha and Others

.... ***Appellants***
Mr. U. C. Behura, AGA

-versus-

Abhijit Mahal and Others

.... ***Respondents***
Mr. M. K. Khunta, Advocaet
on behalf of Mr. R. M. Biswal, Advocate

CORAM:
JUSTICE KRISHNA SHRIPAD DIXIT
JUSTICE CHITTARANJAN DASH

Order No.

ORDER
26.03.2026

04. Heard learned counsel for the parties.

2. This Intra-Court Appeal has been preferred by the State and its Officials challenging the order dated 13.02.2024 and 22.02.2024 in W.P.(C) No.9879 of 2016, passed by the learned Single Judge.

3. The background facts of the case are that the Respondents were enrolled as Home Guards in the Balasore District Home Guards Organization vide D.O. No.45 dated 31.12.2009. Subsequently, their services were discharged on 22.06.2013 through D.O. No.24 for alleged indiscipline conduct and participation in a Home Guards' strike. Following their discharge, the Respondents preferred a Joint Appeal Petition before the Commandant General, Home Guards, Odisha,



Cuttack in 2013. The said Appeal was rejected vide order dated 25.10.2013. Being aggrieved, the Respondents approached this Court in W.P.(C) No.19068 of 2015, which was disposed of on 19.11.2015 granting them liberty to participate in the processes for re-engagement. Thereafter, in 2016, when they were alleged denied permission to participate in the recruitment process, they filed W.P.(C) No.9879 of 2016 seeking a direction to the Appellants-State to allow them to participate in the said process. By order dated 13.02.2024, the learned Single Judge disposed of W.P.(C) No.9879 of 2016 directing the Appellants-State to open the sealed cover and issue the appointment orders in favour of the Respondents. Being aggrieved by the said order, the Appellants have preferred the present Writ Appeal, inter alia, on the ground that the learned Single Judge did not consider the plea of the Appellants taken before it inasmuch as to refer to the provision provided under the Odisha Home Guards Act, 1961 and the corresponding Rule i.e. Odisha Home Guards Rules, 1962 wherein the specific procedure for appointment and re-appointment of Home Guards has been prescribed; further on the ground that the very direction issued by the learned Single Judge to open the sealed cover and issue appointment order in favour of Respondent No.2 is contrary to the statutory provision and it failed to appreciate that the Respondent would have been allowed to participate in the process of selection and offered with the appointment subject to availability of vacancy. The impugned order is challenged also on the ground that the learned Single Judge failed to appreciate that the Respondents were discharged from the service on



completion of three years and their appointment was not accepted by the Review Board in view of the fact that their performance was not found satisfactory and they were unsuitable for the re-enrollment having not attended the Review Board, for their long absence and undisciplined conduct having participated in the Home Guard Strike which is unbecoming of the duty of a personnel to be engaged in disciplined service.

3. Mr. Khuntia, learned counsel appearing for the Respondents on behalf of Mr. Biswal, submitted that he does not press the case of Respondent Nos.1 and 3. Insofar as Respondent No.2 is concerned, it is submitted that, in view of his admitted position that he was permitted to participate in the selection process pursuant to the direction of this Court and was declared successful, there remains no legal impediment to his appointment. It is accordingly contended that he is entitled to be appointed with all consequential benefits, in conformity with the applicable statutory provisions governing engagement of Home Guards.

4. Having considered the submissions advanced by the learned counsel for the parties and upon perusal of the materials available on record, this Court finds itself in broad agreement with the reasons and conclusions arrived at by the learned Single Judge, particularly insofar as Respondent No.2 is concerned. It is not in dispute that Respondent No.2 was permitted to participate in the selection process pursuant to the interim direction of this Court and, upon such participation, was found suitable and declared successful. In such circumstances,



no infirmity can be attributed to the direction issued by the learned Single Judge for giving effect to the said outcome.

5. This Court, therefore, does not find any ground to interfere with the impugned order to the aforesaid extent. Accordingly, the Writ Appeal, insofar as Respondent No.2 is concerned, stands dismissed as being devoid of merit.

6. The Appellants are, therefore, directed to implement the impugned order of the learned Single Judge in W.P.(C) No.9879 of 2016, within an outer limit of eight weeks without giving scope of contempt action.

Web copy of order to be acted upon by all concerned.

(Krishna Shripad Dixit)
Judge

(Chittaranjan Dash)
Judge