
(2006) 04 OHC CK 0002
In the Orissa High Court
Case No : O.J.C. No. 3536 of 1998

Amita Das

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 07-04-2006

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 227

Citation : (2006) 1 OLR 537 Supp

Hon'ble Judges : B.P. das, J;A.K. Samantaray, J

Bench : Division Bench

Advocate : Sashibhusan Das, R.D. Nayak and Ch. A.K. Das, for the Appellant; B. Mishra, Standing Counsel (Railway), for the Respondent

Final Decision : Dismissed

Judgement

A.K. Samantaray, J.—The Petitioner in this writ petition under Articles 226 and 227 of the Constitution of India has assailed the method of selection for the post of Lady Constables in the Railway Protection Force and has prayed for quashment of the order of appointment of Opposite Parties Nos. 4 to 10, a direction to Opposite Parties Nos. 2 and 3, to issue appointment order in her favour and to grant all consequential service benefits.

2. The factual background on which the case of the Petitioner rests may be stated as follows:

In pursuant to an advertisement published in daily newspaper "The Sambad" dated 30.11.1996 for filling up of 30 posts of Lady Constable under South Eastern Railway applications were invited. Out of 30 posts, 15 posts were reserved for General candidates, 4 for S.C. candidates, 3 posts for S.T. candidates and 8 posts were reserved for OBC candidates. The Petitioner who is a Milkman (Gopala) by Caste and belongs to OBC category applied to be appointed as Lady Constable in the said category. After usual scrutiny, she was directed to attend physical test on 11.8.1997 at Kharagpur Stadium and on the

very same day written test was also conducted. The result of the physical and written tests was published in daily newspaper "The Samaj" on 16.9.1997, wherein she was declared selected. The Petitioner was thereafter directed to attend the viva voce test on 18.9.1997 at R.P.F. Training Centre, Khaaragpur and accordingly she attended the viva voce test. After appearing in all the tests the Petitioner expected that she would definitely come out successful in the tests for the post of Lady Constable in the OBC category. But unfortunately, her name did not find place in the final list of selected candidates in the OBC category. She came to know from her friend one Renubala Sahu that medical test of all the selected candidates would commence on 12.1.1998 and getting such information she rushed to the Chief Security Commissioner, Railway Protection Force, Garden Reach, Calcutta (O.P. No. 2) and met him at his office and complained against the arbitrary action of the Selection Board. She also complained that though her name was at Serial No. 1 in the select list, she was not given appointment to the said post and the candidates securing less marks had been directed to attend the training. It is stated in the writ petition that 8 posts of Lady Constable were to be filled up in the OBC category as per the advertisement and after the written test was over there were only 6 candidates who were directed to face viva voce test and as such she expected that since there were 8 posts to be filled up and six candidates were in the fray all would get the order of appointment. It is also stated by her that although she had come out successful and was placed at Serial No. 1, she was not given appointment whereas O.P. Nos. 4 to 9 belonging to other categories got appointment in clear violation of the Constitutional mandate enshrined under Articles 14 and 16 of the Constitution. She has also alleged in the writ petition that O.P. No. 10 Swagatika Behera, who belongs to the S.C. category and was not selected in the physical test, had been given appointment.

3. On the aforesaid ground, the Petitioner has challenged the selection of O.Ps. 4 to 10 and has made prayer in the writ petition as stated earlier.

4. The opposite parties except O.P. No. 10 though received notices did not enter appearance. Notice on O.P. No. 10 could not be served personally as reported.

5. O.Ps. 1 to 3 entered appearance and filed counter affidavit through the Senior Security Commissioner (O.P. No. 3). In the counter affidavit the allegations made by the Petitioner have been refuted and it has been stated that the Selection Committee consisting of three Security Commissioners made the selection of the candidates for the advertised posts as per the laid down procedure. It is stated in the counter that for Orissa, selection was conducted for thirty posts of Lady Constables for the Railway Protection Force along with other States under South-Eastern Railway. It is admitted in the counter that the Petitioner appeared in the physical test along with other candidates on 11.8.1997 and also in the written test on the very same day. The result of physical and written tests was also published in all the Oriya daily newspapers. It is also admitted that on the basis of result of the written and physical tests the Petitioner was directed to attend

the interview on 18.9.1997 at R.P.F. Training Centre, Khaaragpur and she also attended the interview. It is further stated in the counter that a panel was prepared in order of merit as per the vacancies from amongst the candidates who had successfully passed in all the tests, i.e., physical and written tests and viva voce and as the Petitioner could not come in the merit list, her name was not empanelled in the list of successful candidates. It is stated that the candidates were asked to bring their original certificates such as educational qualification certificate, birth certificate, caste certificate and certificate of proficiency in sports, music etc. to be produced at the time of interview which is the last stage of verification of documents of the applicants. At the time of interview, fifteen lady candidates submitted their original OBC certificates with submission that although they belong to OBC category they could not procure the OBC certificates at the time of filing of applications. It is categorically stated that if a candidate belonging to reserved category, fails to submit his/her original caste certificate at the time of interview he/she will not be taken into consideration for the post of reserved category, but be considered to belong to the un-reserved category. Similarly, any candidate failing to produce his/her caste certificate at the time of interview will not be considered for that particular category. It is stated that accordingly, the Selection Committee considered all the fifteen candidates on the basis of their original caste certificates and in all there were twenty-one candidates belonging to OBC category and not six candidates as alleged by the Petitioner. It is stated that out of total twenty-one candidates belonging to OBC category, eight candidates were selected in order of merit. The Petitioner since could not come in the merit list, she was not empanelled. It is the categorical averments of O.Ps. 1 to 3 that there was no irregularity in the matter of selection and appointment and the case of the Petitioner was duly considered and her case was not ignored as alleged by her. It is admitted that O.P. No. 10 Swagatika Behera belongs to scheduled caste community and was selected on merit after qualifying all the tests and as such the allegation of the Petitioner that she was not selected in the physical test is absolutely false and baseless.

6. A rejoinder affidavit has been filed to the counter affidavit and there is nothing new except the allegation that only to show favour to some of the candidates who could not have been selected for appointment but have been selected and appointed, the opposite parties have put forth some imaginary and baseless contentions.

7. Learned Counsel appearing for the Petitioner submitted that although admittedly there were eight posts reserved for OBC category out the total number of thirty posts advertised in respect of the State of Orissa, only six candidates belonging to OBC category were there in the fray including the Petitioner and the Petitioner having qualified in the physical and written tests reasonably expected to be selected in the OBC category as there were only six candidates against eight posts. It was further contended by him that when there were only six OBC candidates who had qualified in the physical and written tests

including the Petitioner, the non-inclusion of the name of the Petitioner in the select panel and inclusion of other candidates who were not in the list of selected candidates of OBC category goes to show that there has been some bungling in the selection process so as to show favour to certain candidates and get them appointed. Learned Standing Counsel appearing for the opposite parties submitted that the contention of the learned Counsel for the Petitioner is not based on record and the candidates who did not produce copy of the caste certificates were included in the un-reserved category and issued call letters having been successful in the physical and written tests. The candidates who qualified in the physical and written tests were intimated to appear in the viva voce test and produce the original certificates in proof of their qualifications, date of birth, caste certificate and certificate of proficiency in sports, music etc. and at the time of interview fifteen candidates produced their original certificates in proof of the fact that they belonged to OBC category and as such those fifteen candidates were taken into OBC category from the unreserved category. Learned Counsel also produced the Broadsheets prepared for recruitment of Lady Constables in the R.P.F. under South-Eastern Railway and on a bare perusal of the same, were are fully convinced that rightly the candidates who produced OBC certificates have been taken to OBC Broadsheets from the un-reserved Broadsheets and this lends support to the contention of the learned Counsel for the O.Ps. that in all there were twenty-one OBC candidates (6+15) who attended the viva voce test including the Petitioner. The Broadsheets also discloses that eight candidates out of twenty-one have been selected on merit taking into consideration the marks secured and the Petitioner who was assigned Roll No. 0861 has secured only 44.3 total marks whereas candidate securing 55.02 marks has been placed in Sl. No. 1 and candidate securing 46 marks has been placed at Sl. No. 8 in the OBC category.

8. This being the fact position, the allegations made by the Petitioner in the writ petition are all frivolous and baseless and there is absolutely no iota of material in the Broadsheet produced by the learned Counsel for the O.Ps. to show that any favoritism has been perpetrated so as to appoint any particular candidate or to discount any one from the select list. The selection has been made on the basis of total marks secured and there being eight posts reserved for Lady Constables in the OBC category, eight candidates have been selected on merit out of twenty-one.

9. Resultantly, we find absolutely no merit in the writ petition and direct dismissal of the same. We, however, make no order as to cost.

B.P. Das, J.

10. I agree.