

(2023) 02 OHC CK 0042
In the Orissa High Court
Case No : Writ Petition (C) No.19627 Of 2020

Ashok Kumar Rath

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

Date of Decision : 09-02-2023

Acts Referred:

Citation : (2023) 02 OHC CK 0042

Hon'ble Judges : Sanjay Kumar Mishra, J

Bench : Single Bench

Advocate : A.K. Biswal, G.N. Rout

Final Decision : Disposed Of

Judgement

Sanjay Kumar Mishra, J

I.A. No.1220 of 2023

1. The matter is taken up through hybrid mode.
2. Learned Counsel for the Petitioner is present and moves the I.A. for appropriate Order, which was filed on 27.01.2023. Mr. Rout, learned Counsel for the State submits that copy of the I.A. is missing from the file and prays for an extra copy. Learned Counsel for the Petitioner undertakes to serve a copy of the I.A. in course of the day. Mr. Rout, learned Counsel for the State prays for time to take instructions and file Objection to the I.A.
3. Learned Counsel for the Petitioner submits that during pendency of the Writ Petition the Petitioner was allowed to participate in the professional examination 2022 and has been declared as pass in the said examination and the result of the said examination has been published on 11.01.2023. He further submits that the gradation list was published on 09.12.2022 in the category of Junior Engineer of Directorate of Fisheries and in the said gradation list name of the Petitioner is reflected at Sl. No.1. The D.P.C. is going to be held shortly and it was ascertained by his client that his case will not be considered for promotion by taking his date

of regularization of service as Junior Engineer on the ground that his case is not coming under the purview of promotion though the Petitioner is working since more than 20 years in the department as Junior Engineer. He further submits that the Petitioner's case should have been considered by taking into account the date of entry into service in the year 2008 and during pendency of the Writ Petition, now the authority is going to fill up the post by promoting Juniors. He submits that earlier also three juniors to the Petitioner have got promotion and the Petitioner is deprived of getting promotion though his name took place at Sl. No.1 in all the gradation list, including gradation list dated 09.12.2022.

4. Though a prayer has been made in the I.A. to direct the Opposite Parties not to promote any person to the post of Assistant Engineer (Civil) as per the gradation list dated 09.12.2022, but an alternative prayer has been made to keep one post of Assistant Engineer (Civil) vacant till disposal of the Writ Petition. Mr. Rout, learned Counsel for the State, vehemently opposes to the said prayer made in the I.A. and submits that since Counter Affidavit has been filed, matter be heard and decided on merit.

5. Learned Counsel for the Petitioner submits that the DPC is likely to be held within a day or two and there is every possibility that all the vacant posts will be filled up by the authority and thereby, the Petitioner will be seriously prejudiced. He reiterates his alternative prayer made in the I.A.

6. In view of such submission made by the learned Counsel for the Parties, this Court is inclined to pass an Order to the effect that one post of Assistant Engineer (Civil) be kept vacant till the next date.

7. Matter be listed in the week commencing from 27th February, 2023.

8. Objection to the I.A. be filed before the next date of listing after serving copy of the same on the learned Counsel for the Petitioner.

9. Urgent certified copy of the Order be granted on proper application as per rules.

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