

(2023) 03 OHC CK 0110
In the Orissa High Court
Case No : Writ Petition (C) No.7401 Of 2023

Dharitri Panigrahi And Others

APPELLANT

Vs

State Of Odisha And Another

RESPONDENT

Date of Decision : 15-03-2023

Acts Referred:

Citation : (2023) 03 OHC CK 0110

Hon'ble Judges : A.K. Mohapatra, J

Bench : Single Bench

Advocate : S.K. Bhanjadeo, R.N. Mishra

Final Decision : Disposed Of

Judgement

A.K. Mohapatra, J

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard the learned counsel appearing for the Petitioner as well as the learned Additional Government Advocate appearing for the State-Opposite Parties. Perused the writ petition as well as the documents annexed thereto.
3. The present writ petition has been filed by the Petitioners with a prayer to direct the Opposite Parties for issuance as well as uploading their Admit Cards to appear the exam, which is to be held on 19.03.2023 for recruitment of 7483 number of District Cadre Group-C post of Nursing Officer pursuant to Advertisement No.IIE-01/2023-459(C)/OSSSC, dated 21.01.2023.
4. On perusal of the writ petition and upon hearing the learned counsel for the Petitioners, this Court observes that the grievance of the Petitioners in the present writ petition is that in the recent past they were engaged as Nursing Officers during Covid-19 pandemic period on temporary basis. Thereafter, 4070 posts of Nursing Officer in District Cadre were advertised by the Opposite Party No.2 vide advertisement dated 9.5.2022 under Annexure-1 Series. Pursuant to such advertisement, it is stated that, the Petitioners not only registered

themselves, but also submitted their online applications. While the matter stood thus, the Opposite Party No.2 took no further steps pursuant to Annexure-1 Series although the Petitioners were waiting eagerly to participate in the selection process.

5. Finally, the advertisement under Annexure-1 Series was cancelled by a subsequent advertisement dated 21.1.2023 under Annexure-5. On perusal of the said advertisement, it appears that a total of 7483 posts of Nursing Officer in 30 districts of the State of Odisha belonging to District Cadre Group-C posts were advertised by cancelling the earlier advertisement under Annexure-1. Subsequent advertisement under Annexure-5 further reveals that the candidates were asked to register/re-register and submit their application, for which, the starting date was 27.01.2023 and the end date has been notified to be 17.02.2023. After submitting the applications, the candidates are required to appear in the written test, which is scheduled to take place on 19th March, 2023. The Petitioners who had applied under the first advertisement under Annexure-1 Series and had submitted their online application, however, they could not submit their application pursuant to the advertisement under Annexure-5.

6. Learned counsel for the Petitioners submitted that since there was a confusion as to whether the Petitioners are required to apply again or not under the subsequent advertisement, the Petitioners could not apply under the second advertisement dated 21.1.2023 under Annexure-5. It is further submitted that although the Petitioners fulfill all the eligibility criteria and they have served on temporary basis during Covid-19 pandemic period by putting their life into danger, they have been deprived of an opportunity to participate in the selection process for appointment to the post of Nursing Officer pursuant to advertisement under Annexure-5. Accordingly, the Petitioners have approached this Court by filing the present writ petition.

7. Mr. R.N. Mishra, learned Additional Government Advocate appearing for the State-Opposite Parties, on the other hand submits that the advertisement dated 21.1.2023 under Annexure-5 is very clear. He further submitted that the advertisement under Annexure-5 clearly indicates that the earlier advertisement dated 9.5.2022 under Annexure-1 Series has been cancelled and the candidates, who are desirous of being selected as Nursing Officer, were directed to apply afresh by submitting their application online. Since the Petitioners have not submitted their applications within the time stipulation provided under Annexure-5, the Opposite Parties are under no legal obligation to accept such applications at a belated stage. Mr. Mishra, further contended that the advertisement under Annexure-5 is very clear, therefore, therefore, there exists no ambiguity to understand the language of the advertisement under Annexure-5. Thus, the Petitioners should have submitted their application pursuant to the advertisement under Annexure-5 by re-registering themselves. He further contended that the necessity for cancelling the first advertisement and issuing the second advertisement arose as the concerned department found that

the numbers of post of Nursing Officer throughout the State are lying vacant. Therefore, all those posts were clubbed together and under advertisement in the shape of Annexure-5 was published for recruitment of 7483 posts of Nursing Officer in 30 districts of the State of Odisha belonging to District Cadre Group-C posts.

8. In reply to the submission of Mr. Mishra, learned Additional Government Advocate, learned counsel for the Petitioners submits that the Petitioners had rendered services by putting their life into danger during the time of Covid-19 pandemic. Thereafter, they have legitimate expectation that their services will be regularized against regular posts of Nursing Officers which are lying vacant. However, when such opportunity came in the shape of advertisement under Annexure-1 Series, although the Petitioners applied by submitting their applications, the said advertisement was subsequently cancelled. Due to the confusion, the Petitioners could not apply afresh under second advertisement. Learned counsel for the Petitioners further contended that the Petitioners were under the impression that since they had submitted their application under first advertisement, therefore, it was not necessary to apply afresh pursuant to subsequent advertisement under Annexure-5. In such view of the matter, learned counsel for the Petitioner urges before this Court that the Petitioners be given an opportunity to appear in the selection process by submitting their applications and by re-registration themselves either through online or through offline mode.

9. Mr. Mishra, learned Additional Government Advocate, in his usual fairness and on instruction, submitted that the Petitioners can be accommodated by providing them an opportunity provided the Petitioners submit their offline application by tomorrow. He further submitted that the aforesaid instruction is applicable to the Petitioners in the present case and shall not be treated as a precedent, otherwise the same would cause inconvenience to the Opposite Party No.2 to conduct the examination, since a number of total 18000+ candidates throughout the State have applied for such posts and are likely to take the examination on 19th March, 2023.

10. Considering the submission made by the learned counsel for the respective parties and upon a careful consideration of the background facts of the present case, this Court directs the Petitioners to submit hard copy of their application along with their registration and application form submitted by them pursuant to advertisement under Annexure-1 Series before Opposite Party No.2 by 5.00 P.M. tomorrow, i.e., 16th March, 2023. In the event such application along with the other documents as directed hereinabove are submitted before the Opposite Party No.2 by tomorrow before 5.00 P.M., the Opposite Party No.2 shall do well to consider the same and allow the Petitioners to participate in the written test, which is likely to be conducted on 19th March, 2023. It is further clarified here that the selection of the Petitioners shall also be subject to their fulfilling other criteria as provided under the advertisement and the relevant rules.

11. Before parting with this order, it is made clear that considering the extraordinary circumstances involved in the present case, the direction given hereinabove is confined to the present case and same shall not be treated as a precedent.

12. With the aforesaid observation and direction, this writ petition is disposed of.

13. A free copy of this order be handed over to Mr. R.N. Mishra, learned Additional Government Advocate appearing for the State-Opposite Parties for compliance.

14. Urgent certified copy of this order be granted on proper application in course of the day.

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