

(2021) 12 OHC CK 0136
In the Orissa High Court
Case No : Writ Petition (C) No. 22692 Of 2020

Nilamani Mohapatra & Others

APPELLANT

Vs

State Of Odisha And Another

RESPONDENT

Date of Decision : 21-12-2021

Acts Referred:

Citation : (2021) 12 OHC CK 0136

Hon'ble Judges : M.S.Sahoo, J

Bench : Single Bench

Advocate : B.S.Tripathy 1, S. Jena

Final Decision : Disposed Of

Judgement

M.S.Sahoo, J

This matter is taken through hybrid mode.

Heard Mr. Tripathy, learned counsel for the petitioners along with Mr.N.C. Rout, learned counsel, who is present in Court, and Mr. S. Jena, learned Standing Counsel appearing for the School and Mass Education Department.

It is submitted by Mr. Tripathy, learned counsel along with Mr. Rout, learned counsel for the petitioners that the petitioners have been long suffering since their Recruitment,1997, as direct recruits and they have not been granted seniority in the juniors SES cadre, which they are entitled to. It is further submitted that in response to various provisional gradation list, the petitioners have been representing for correction of inter se position and grant of seniority, which have not yet been responded to.

It is further submitted by the learned counsel for the petitioners that by order dated 10.09.2020, as an interim measure, this Court had directed as follows :

"As an interim measure, it is directed that any promotion pursuant to the Gradation List vide Annexure-6 shall remain subject to the result of the writ

petition. It is further directed that this interim order shall be reflected in the order of promotion, if any, likely to be issued."

It is further submitted by the learned counsel for the petitioners that pursuant to the interim order, the promotions have been made subject to the result of the writ petition, but the subsequent development has necessitated filing of the I.A. No.18095 of 2021, as because, the petitioners' position in the gradation lists has not been finalized and the petitioners are suffering due to non-consideration of their case for any promotion and other service benefits.

Mr. Jena, learned Standing Counsel for the School and Mass Education Department submits that the prayer in the I.A. does not refer to any particular representation/objection to the gradation list and in the peculiar circumstances of the case, the petitioners individually have to represent stating their individual cases before the authority pertaining to their position in the gradation list.

Having heard the learned counsel for the parties, the writ petition is disposed of with the following observation.

The petitioners, if so advised, shall represent before the appropriate authority by making individual representation regarding their position in the gradation list(s). The petitioners shall have at liberty to refer the other documents and earlier representation, if any, pertaining to their position in the gradation list.

Since, the matter is pending since long, starting with the O.A. No.1735(C) of 2004 and O.A.No.3187(C) of 2009, the authorities are expected to take a holistic and pragmatic view of the matter while finalizing the gradation list. The authorities shall consider the representation that would be filed and decide the same and take a decision within four months.

If the petitioners' cases are considered and decided favourably the authorities shall take steps in accordance with law for giving effect to their decision expeditiously.

The petitioners shall have liberty to take appropriate follow up action in accordance with law as would be available, pursuant to the decision of the authority/order that would be passed.

It is clarified that this Court has not expressed any opinion on the merits of the case, in any manner whatsoever.

The writ petition is accordingly disposed of.

Urgent certified copy of this order be granted on proper application.

Let copy of the order be uploaded in the website.

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