

(2010) 06 OHC CK 0045
In the Orissa High Court
Case No : Writ Petition (C) No. 9770 of 2009

Rumi Dwibedi

APPELLANT

Vs

Chairman, Orissa Public Service Commission and Others

RESPONDENT

Date of Decision : 24-06-2010

Acts Referred:

Orissa Superior Judicial Service and Orissa Judicial Service Rules, 2007 — Rule 18, 18(1), 19, 19(3)

Citation : (2010) 1 ILR (Ori) 7

Hon'ble Judges : V. Gopala Gowda, C.J; L. Mohapatra, J

Bench : Division Bench

Judgement

1. The Petitioner in this writ application has prayed for acceptance of her application to appear in the examination conducted on 15.7.2009 for appointment to Orissa Judicial Service and quashed Annexure-10, in which the application of the Petitioner has been rejected for want of proper evidence regarding Oriya Pass (M.E. Standar) as required under Para 7(III) (I) of the advertisement. The O.P.S.C. issued an advertisement for appointment o Orissa Judicial Service for the year 2008-09 and the last date of receipt of application was 2nd March, 2009. The Petitioner submitted her application for appearing in the written examination. Her application was however rejected for want of proper evidence regarding Oriya Pass (M.E. standard) as required under the advertisement.

2. It is contended by the learned Counsel for the Petitioner that the certificate issued by the school in which she was reading clearly shows that she had Oriya as one of her compulsory subject from Class-IV to Class-VIII and, therefore, the said certificate should have been accepted for the purpose of proving that she had Oriya Pass (M.E. standard) in terms of the advertisement.

3. The advertisement in Annexure-1 clearly stipulates that the candidates are required to produce the documents as indicated in Clause-7 of the advertisement which includes Oriya Pass certificate from the Board of Secondary Education,

Orissa or any other Board or Council of Secondary Education approved by the Government in support of passing of Oriya Language Test equivalent to M.E. School standard, if not passed H.S.C. or equivalent examination having Oriya as one of the subjects.

4. Admittedly, the Petitioner is a student of I.C.S.E. and, therefore, in terms of the said advertisement, could not produce the certificate issued by the Board of Secondary Education, Orissa. However, Annexure-12 shows that the school in which the Petitioner had studied has certified that the Petitioner had Oriya as a compulsory subject from Class-IV to Class-VIII. The question that arises for consideration is that whether the said certificate satisfies the requirements as stated above?

5. It was contended by Shri Dash, learned Counsel appearing for O.P.S.C. that the students, who have taken I.C.S.E. course, have to obtain a pass certificate from the Board of Secondary Education, which is conducted regularly in respect of different types of employment where knowledge in Oriya of M.E. standard is required and, therefore, in stead of passing such examination conducted by the Board of Secondary Education, the Petitioner could not have produced the certificate issued by the school to indicate that she had Oriya as a compulsory subject from Class-IV to Class-VIII and the said certificate issued by the school can not be treated as equivalent to a certificate issued by the Board of Secondary Education, Orissa for the purpose.

6. On consideration of submissions of the learned Counsel appearing for the parties and with reference to Rules 18 and 19 of OSJS and OJS Rules, 2007, we find under Rule 18(1)(c) of the aforesaid Rules, a candidate is required to speak, read and write Oriya fluently and must have passed the examination in Oriya language equivalent to that of Middle English School , standard. Rule 19(3)(ii) provides requirement of a certificate from the Board of Secondary Education of Orissa or in any other Board or Council of Secondary Education approved by Government in support of passing of Oriya Language Test equivalent to M.E. School standard.

7. On reading of both the provisions, we find that the intention in inserting the above two provisions is that a candidate applying for the post should have knowledge in order to speak, read and write Oriya fluently and for that passing of an examination in Oriya Language equivalent to that of Middle English School standard is necessary.

8. Here is a case where there is no dispute that the Petitioner had Oriya as a compulsory subject from Class-IV to Class-VIII and had secured marks in the said subject. Since the Petitioner had Oriya as a compulsory subject from Class-IV to Class-VIII, it cannot be said that she was not capable of speaking, reading or writing Oriya of the standard as required under the Rules.

9. On harmonious reading of both the provisions, we are of the view that the certificate produced by the Petitioner should have been accepted by O.P.S.C. and

her application should not have been rejected only on that grounds. As it appears, by an interim Order dated 14.7.2009, the Petitioner -had been allowed to appear in the written examination test. The Court is not Informed as to whether the Petitioner had succeeded in the written test examination or not. However, the written and viva-voce test examination has been completed for the year 2009 and the appointments have already been made in the meantime. Therefore, while finding the writ petition has become infructuous in the meantime, we observe that in the event, the Petitioner submits any such application in pursuance of the advertisement issued by O.P.S.C. for appointment to Orissa Judicial Service, such certificate in Annexure-12, if produced by the Petitioner, shall be treated as compliance of Rule-19(3)(ii) of the Rules.

10. The writ application is accordingly disposed of.