
(2008) 10 OHC CK 0026
In the Orissa High Court
Case No : O.J.C. No. 2002 of 1998.

Sarada Prasanna Sahu

APPELLANT

Vs

Chairman, Paradeep Port Trust and Another

RESPONDENT

Date of Decision : 17-10-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) CLT 905 Supp : (2009) 1 ILR (Ori) 299 : (2008) OLR 905 Supp

Hon'ble Judges : S.R. Singharavelu, J;B.P. Das, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

B.P. Das, J.—The fact narrated in the writ application tend to reveal as follows:-

The Petitioner was a candidate for the posts of Stenographer (Grade- III) in the Paradeep Port Trust and in the tests held for the purpose., he claims to have come out successful. He alleges that the O.P.- Port Trust authorities are not taking any decision to fill the vacancies in the said posts of Stenographer from amongst the candidates, whose names find place in the merit-cum-select list prepared by the Staff Selection Committee constituted for the purpose, for which he has filed this writ petition with a prayer to direct the opposite parties to appoint him in the post of Stenographer (grade-III) in terms of the merit-cum-select list prepared by the Staff Selection Committee of the 5.11.1997.

2. A preliminary counter affidavit-has been filed by the opposite parties, wherein is stated that the Petitioner along with several other candidates initially appeared at the Stenography test held on 4.7.1997, in which only one candidate, namely, L.N. Mohapatra was successful and was ultimately appointed as Stenographer (Grade-III). Fourteen candidates including the Petitioner, who were unsuccessful in the said test, represented to the Chairman of the Port Trust to allow them a second chance to appear in the Stenography test. After approval by the Chairman, fourteen unsuccessful candidates including the Petitioner were allowed

to appear at the test, which was held on 5.9.1997. Out of fourteen candidates, six including the Petitioner came out successful in the test and the Staff Selection Committee on 5.11.1997 recommended their names for the posts of Stenographer (Grade-III). Thereafter, looking into various allegations made from different quarters regarding the fairness of the selection process and the complaints made with the CBI Authorities and as several writ petitions were filed before this Court, the authorities reviewed the entire process of interview for the posts of Stenographer (Grade-III) and found that the second chance of procedure of interview was vitiated and accordingly, cancelled the proceeding of the Staff Selection Committee held on 5.11.1997 recommending six candidates including the Petitioner for the posts in question, subject to the result of the writ petitions, vide Annexure-D/1.

3. Now learned Counsel for the Petitioner alleges that once the Petitioner was selected by a properly constituted Committee, the cancellation of the select list prepared by the said Committee is illegal and he bound to get an appointment in the post Stenographer in the Port Trust.

The second argument of the learned Counsel for the Petitioner is that since allegations were made against the entire selection, the authorities should have cancelled the selection made on 4.7.1997 and 5.11.1997.

4. We are not inclined to accept the first submission of the learned Counsel for the Petitioner because even if a person is selected, he does not have any indefensible right to get an appointment. It is always open to the employer either to keep the post vacant or to make appointment in the same. In other words, filling of post is totally within the domain of the employer. That apart, when on certain allegations of irregularity and lack of transparency, the select list has been cancelled, now we cannot review the decision taken by the authority in a proceeding under Article 226 of the Constitution of India and come to the conclusion that the selection process has been done fairly. It is worthwhile to mention here that in the selection test held on 4.7.1997, only one candidate succeeded and the Petitioner along with others was unsuccessful and none of such candidates had challenged the selection but on the other hand, requested the authorities to give them a second chance to appear in the test. So the contention of the Petitioner that the first appointment should be declared null and void is not justified.

5. The second contention of the Petitioner that since allegations were made from different quarters against the entire selection, the authorities should have cancelled both the selection, is not tenable because the authorities, according to Mr. Padhi for the Port Trust, had applied their mind to the allegations having found that there were irregularities in the second selection, the authorities decided to cancel the same.

In view of the aforesaid facts, the Petitioner is not entitled to get the relief sought for.

The writ application is accordingly dismissed. No cost.