

(2025) 04 OHC CK 1412
In the Orissa High Court
Case No : Writ Petition (C) No. 38486 Of 2023

Satyabhama Nag

APPELLANT

Vs

State Of Odisha Vs

RESPONDENT

Date of Decision : 09-04-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Odisha Subordinate Forest Service (Method of Recruitment and Conditions of Service of Foresters) Amendment Rules, 2020 — Rule 6, 14

Citation : (2025) 04 OHC CK 1412

Hon'ble Judges : V. Narasingh, J

Bench : Single Bench

Advocate : R.R. Ray, S.P. Das

Final Decision : Disposed Of

Judgement

V. Narasingh, J.

1. Heard learned counsel for the Petitioner and learned counsel for the State.

2. The present Writ Petition has been filed assailing the impugned order dated 08.02.2023 at Annexure-4 by which the Petitioner, who was working as a Forest Guard, belonging to SC category and a woman was denied promotion to the cadre of "Forester".

The Petitioner consequentially assailed the promotion, which according to the Petitioner was erroneously given to Opposite Party Nos.5 and 6 vide Annexure-3.

3. Brief facts germane for just adjudication which are undisputed are as under:-

The Petitioner who belongs to Scheduled Caste category joined as Forest Guard on being selected by order dated 21.08.2000.

4. Taking into account the bone of contention in the writ petition, it is apt to refer Annexure-1 more particularly at page-12 of the brief, which indicates that the physical standard test of the candidates selected for the post of Forest Guards in

Kalahandi North Forest Division under Bhawanipatna Circle was conducted in the year 2021. In the result sheet of such test, the name of the Petitioner appears at SERIAL NO.3 under the category "SC" and her height in cm is stated as "153.2". For convenience of reference the said list is extracted hereunder:-

5. Since the Petitioner was eligible for promotion to the post of Forester, she participated in the selection and since her height was found to be less than the minimum standard of 153 cm as per the requirement, her case was not considered and assailing the same, the Petitioner approached this Court by filing W.P.(C) No.26363 of 2022, which was disposed of by the order dated 12.10.2022, wherein this Court directed the authorities to consider the claim of the Petitioner for her promotion.

6. On fresh consideration, by the impugned order at Annexure-4 the claim of the Petitioner was rejected, assailing which the present Writ Petition has been filed.

7. On perusal of Annexure-4, it is seen that the authorities have referred to the criteria for promotion as per Rule 14 of Notification No. FE-FE3-FE-0103-2019-4302 dtd. 26.02.2021 i.e. Odisha Subordinate Forest Service (Method of Recruitment and Conditions of Service of Foresters) Amendment Rules, 2020 and hereinafter referred to as "Rules, 2020". In the said Rules, in a tabular form, the minimum physical standard of the candidates of different categories has been detailed and the same is extracted hereunder:-

Category of Candidate

Minimum Height (in cm)

Minimum Chest (in cm)

Un-expanded

Expanded

Men

UR/SEBC/SC

168

81

Up to 5cm

ST

158

81

Up to 5cm

Women

-

-

And for the list in question, since the Petitioner is a woman and belongs to SC category the minimum required height is 153 cm.

7-A. Referring to the said Rules, it is stated that the height of the Petitioner was found to be 152.2 cm and therefore, she was not promoted to the higher rank. Such finding in the impugned order at Annexure-4 runs thus:-

"And whereas the height of Smt. Satyabhama Bag, Forest Guard (Petitioner) is found 152.2 cm and she did not achieve the minimum height as required for the promotion to the rank of forester".

8. Learned counsel for the Petitioner draws the attention of this Court to the list annexed as Annexure-1, which has already been adverted to hereinabove.

In the said list, the physical standard test of Forest Guard for promotion to the rank of Forester in respect of Divisional Forest Officer, Kalahandi North Division has been stated and the name of the Petitioner in the said list appears at Serial No.3 and her height has been mentioned as 153.2 cm.

The said list reflects the name of the Petitioner and also the names of members of the Board which examined prospective candidates for promotion.

It is apt to note here that such list given under Annexure-1 is not controverted in the counter affidavit filed by the learned counsel for the State.

9. Reiterating the stand taken in the impugned order of rejection, learned counsel for the State, Mr. S.P. Das submitted that the height of the Petitioner is less than the expected physical standard of Rule 6 of the Odisha Subordinate Forest Service (Method of Recruitment and Conditions of Service of Foresters) Amendment Rules, 2020. Hence, she was rightly not considered.

9-A. In reply to the Writ Petition, it has been further stated in the counter affidavit filed by the learned counsel for the State that the height of the Petitioner had been found to be 152.2cm and further the height of the Petitioner is found to be 151.5 cm as per the latest report of the Dist. Medical Officer (MS)-Cum- Superintendent (DHH), Kalahandi and it is asserted that she did not possess the minimum height of 153 cm.

10. Learned counsel for the Petitioner, Mr. Ray in response to the counter affidavit submits that her height was wrongly reflected and in fact it is 153.2 which is more than the minimum eligible height of 153 cm for the promotion to the post of Forester referring to the service book which is on record.

11. Admittedly the Petitioner was eligible for consideration for promotion to the rank of Forester in terms of the Rule 6 of the Odisha Subordinate Forest Service (Method of Recruitment and Conditions of Service of Foresters) Amendment Rules, 2020. The only ground for which her case was not considered for promotion was that her height was found to be less than the prescribed standard.

12. At the cost of repetition, it is worth noting that the list annexed as Annexure-1 has been referred to in paragraph-7 of the writ petition and on close scrutiny of the counter affidavit, it is seen that the assertions in the said paragraph have not been responded to.

13. It is the further stand of the learned counsel for the Petitioner that the claim of one Meena Naik, who is similarly circumstanced with the Petitioner for promotion was allowed by Judgment dated 12. 02.2025 in W.P. (C) No. 21393 of 2023. Furthermore the Petitioner, who is a woman belonging to SC category, is at all fours with the said Meena Naik. Hence, the impugned order at Annexure-4 being arbitrary, is liable to be quashed.

14. Since it has been demonstratively established which has not been rebutted by the State authorities that the height of the present Petitioner is 153.2 cm as per Annexure-1 (page-12 of the brief) and even otherwise at the time of her initial recruitment her height was 153 cm which is at Annexure-5, the ground on which she was not considered for promotion is ex-facie untenable. Since as already noted, the Petitioner who is a woman and belongs to SC category has more than the prescribed height thus, the impugned order at Annexure-4 being patently arbitrary, is liable to be quashed.

15. Accordingly, the impugned order at Annexure-4 is hereby quashed.

16. Since there is no dispute regarding the placement of the Petitioner in the list which is at Annexure-C/4 of the Counter Affidavit filed by the State where the Petitioner (Sl. No.14) has been placed above Opposite Party No.6 who is at Serial No.24 of final common gradation list of Forest Guards in respect of Bhawanipatna (T) Circle, as on 01.06.2022 as well as Meena Nayak at Serial No. 23, who is similarly circumstanced with the Petitioner which was the basis for consideration for promotion of eligible candidates to the rank of "Forester", it is directed that the Petitioner shall be placed above Opposite Party No.6 in the cadre of "Forester" with all consequential service benefits. The necessary follow up action in this regard shall be taken within a period of six months from the date of receipt/production of copy of this judgment.

Liberty is granted to the Opposite Party No.6 to seek variance of this judgment in case they have any grievance regarding fixation on inter se seniority.

17. The Writ Petition thus stands disposed of. No costs.

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