

(2013) 08 OHC CK 0072
In the Orissa High Court
Case No : W.P. (C) No. 11925 of 2013

Sovabati Manasingh

APPELLANT

Vs

The Chancellor

RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Citation : (2014) 1 ILR (Ori) 469

Hon'ble Judges : M.M. Das, J; Akshaya Kumar Rath, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The petitioner in the aforesaid writ application has prayed for the following reliefs:

(a) Admit and allow the writ.

(b) Issue Rule-NISI calling upon the opposite parties as to why the Annexure-1 bearing No. 2650 dt. 14.5.2013 that is paper advertisement of Sambad paper for recruitment of one Junior Stenographer post of Shri Jagannath Sanskrit Viswavidyalaya, Puri shall not be quashed as in earlier occasion one Writ vide No. 26024 of 2011 till is pending in this Court and fresh notification brings fresh cause of action to move this writ and if the opposite parties are failed to provide show cause make the rule absolute.

(c) Pass an order directing the opposite parties to give details about the vacancy of Junior/Senior Steno posts with absorption of the petitioner as senior stenographer from the year 1994 with all service benefits.

(d) Pass an order/orders/direction/directions in favour of the petitioner.

This case has a chequered history. Seventeen writ petitions were filed before this Court relating to promotion of the petitioner vis-?-vis Ramakanta Mohapatra, Opposite party No. 5. The petitioner-Sobhabati Mansingh @ Mallick herself had filed about thirteen writ petitions. Out of thirteen writ petitions, seven writ

petitions were taken up for hearing together on 11.5.2012 as the rest of the cases were disposed of by that time.

2. In essence, the claim of the petitioner in all the writ petitions relates to promotion to the post of Senior Stenographer in Shri Jagannath Sanskrit Viswavidyalaya, Puri (hereinafter referred to as "Viswavidyalaya"). One Ramakanta Mohapatra, opposite party No. 5 was promoted from the post of Junior Grade Typist on temporary basis to the post of Senior Stenographer w.e.f. 1.7.1990 by order dated 6.10.1990. Thereafter another order was issued in his favour on 18.4.1991. The appointment of opposite party No. 5 was the subject matter of dispute in some of the writ petitions.

3. All the writ petitions were heard together and dismissed vide common order dated 11.5.2012. The relevant portion of the said order is quoted hereunder:

12. In the year 1997 one post of Junior Stenographer was upgraded to the post of Senior Stenographer increasing the sanctioned strength to "two". The said post was filled up by promotion from out of the select list prepared by the Departmental Promotion Committee. This fact is clear from the order passed by the Commissioner-cum-Director (O.B.C.) dated 19.4.2010, which has been annexed as Annexure-5 to W.P.(C) No. 9065 of 2010. The submissions made in all the writ petitions relating her claim for promotion, were made before the Commissioner-cum-Director (O.B.C.) and it was specifically held by the Commissioner that as against the first post of Senior Stenographer available to be filled up in the year 1990, Ramakanta Mohapatra had been given promotion as an unreserved category candidate, as the policy of reservation could not be applied against a single vacancy.

13. After the second post of Senior Stenographer was created by way of up-gradation one Pramod Chandra Maharana, who was second in the list prepared by the Departmental Promotion Committee during the year 1994 was given promotion on ground that reservation did not apply to upgraded post. Even if the contention of the petitioner is accepted that reservation is applicable to the upgraded post, the same has to be kept reserved for a Scheduled Tribe category candidate as per the roster point. Therefore, under no circumstances the petitioner, who claims to be Scheduled Caste candidate could be considered for promotion to the second post, which is meant for a Scheduled Tribe Candidate, the fourth post being meant for a Schedule Cast Candidate as per the Model Roster.

4. Thus, the issue pertaining to absorption/promotion of the petitioner to the post of Senior Stenographer from the year 1994 has been conclusively determined by this Court on 11.5.2012 in W.P.(C) 31275 of 2011 and a batch of writ petitions. While the matter stood thus, Viswavidyalaya, Puri issued an advertisement in the daily "The Sambad" on 18.5.2013 inviting applications from the eligible candidates for the post of Junior Stenographer. Assailing the same, the petitioner has filed the present writ petition. The petitioner has also prayed in

paragraph-c of her prayer for her absorption in the post of Senior Stenographer from the year 1994 with all service benefits.

5. The petitioner herself has filed the present writ petition with payer to promote her against the upgraded post of Senior Stenographer. According to her one more post of Junior Stenographer was upgraded to the cadre of Senior Stenographer and she should have been promoted as against the said post.

6. We have heard the husband of the petitioner, who appears in person on the basis of power of attorney executed by the petitioner and Sri Biswanath Ratho, learned counsel appearing for the private opposite party No. 5.

7. We are afraid that the petitioner has no locus standi to challenge the advertisement issued by the Viswavidyalaya, Puri vide Annexure-1. The petitioner is not a "person aggrieved". The service career of the petitioner in no way is affected, if a junior stenographer is appointed pursuant to the advertisement vide Annexure-1. In a circuitous way the petitioner tried to reopen the issue of her promotion to the post of Senior Stenographer. The said issue has been conclusively determined by this Court on 11.5.2012 in W.P.(C) No. 31275 of 2011 and a batch of writ petitions. In view of the same, the present writ petition is barred by res-judicata.

8. In Dr. Buddhi Kota Subbarao Vs. K.Parasaran and others, , the Hon''ble apex Court has observed that no litigant has right to un-limited drought on the Court time and public money in order to get his affairs settled in the manner he wishes. However, easy access to justice should not be misused as a licence to file misconceived or frivolous petitions.

9. In Sabia Khan and Others Vs. State of U.P. and Others, the Hon''ble apex Court has held that tiling totally misconceived petition amounts to abuse of process of the Court and such litigant is not required to be dealt with lightly. Though the issue has been conclusively determined by this Court, yet the petitioner has tried to re-open the same. The petitioner herself has filed thirteen writ petitions earlier and presently two. This is a sheer abuse of process of the Court. We could have imposed an exemplary cost, but then considering the fact that the husband of the petitioner appeared in person through power of attorney, we restrain ourselves. We make it clear that in future, if the petitioner approaches this Court for the self-same relief, which has already been decided or by that process attempts to reopen the issue which has been conclusively decided by this Court earlier, an appropriate contempt proceeding will be initiated against her for wasting the valuable time of the Court. The writ petition is accordingly dismissed.