

IN THE HIGH COURT OF ORISSA AT CUTTACK
SUO MOTU W.P(C) No.1273 of 2014

Registrar, Judicial, Sou motu	Petitioner
Mr.Gautam Misra, Advocate		
-versus-		
State of Orissa	Opposite Party
Mr. M.S. Sahoo, Addl. Government Advocate		

CORAM:
THE CHIEF JUSTICE
JUSTICE S.K. PANIGRAHI

ORDER
13.07.2021

Order No.

08. 1.This matter is taken up by video conferencing mode.
2. This petition challenges the validity of the Odisha Group-C and D posts (Contractual Appointment) Rules, 2013. Mr. Sahoo, learned AGA, seeks to apprise the Court of certain developments and accordingly seeks an adjournment.
3. List on 29th July, 2021.

I.A. No.3468 of 2020 & I.A.No.6662 of 2020

4. Both these applications have been filed by one Manas Ranjan Mishra who is presently working as Programmer in this Court's Establishment.
5. The Applicant has filed IA 6662 of 2020 seeking recall of the order dated 18th March, 2020 passed by this Court which in turn recalled the directions issued in para No. 6.2 of an earlier order

dated 3rd January, 2020 whereby a mandamus was issued to the State Government to upgrade the post of Programmer to the post of Assistant Registrar (IT) in the Court's establishment, as soon as possible, preferably within six weeks from the date of receipt of a copy of the said order.

6. It was noted in the subsequent order dated 18th March, 2020 that such a direction would cause injustice to the persons presently working as System Analysts inasmuch as their promotional prospects would be affected. Consequently, the said portion of the order dated 3rd January, 2020 was modified by directing that since one post each at Level-11 and Level 12 of the Pay Matrix had been created as per the letter dated 21st December, 2019 of the Government of Odisha, the eligible and suitable candidates working in the post of System Analysts were to be considered for promotion to Level-11 and Level-12 of the IT Department. Those working as Senior System Analyst could be considered for the post of Assistant Registrar (IT) in future.

7. According to the Applicant since Para-6.2 of the order dated 3rd January, 2020 was in his favour, the subsequent order dated 18th March, 2020 could not have been passed without hearing him. Mr. H.S. Mishra, learned counsel for the Applicant submitted that the above order dated 18th March 2020 was passed by the Court without considering IA No.3468 of 2020 filed by the Applicant on 23rd February, 2020 seeking intervention.

8. In the first instance, the Court would like to note that the present suo motu proceeding was limited in its scope. The issue was the delay in the State Government processing or responding to the Court's proposals for creation of posts. The directions issued in para 6.2 of the order dated 3rd January, 2020 had created difficulties which were sought to be explained in I.A. No.2784 of 2020 filed soon thereafter by the employee's association.

9. The question of creation of new posts in the Court's establishment has to necessarily be a consultative exercise keeping in view all exigencies. This has been acknowledged in the Court's subsequent order dated 3rd March, 2021.

10. Having perused the order dated 18th March, 2020, the Court is unable to agree with Mr. Mishra, learned counsel for the Applicant that the order dated 3rd January, 2020 could not have been recalled without hearing the Applicant. No vested right was created in favour of the applicant as a result of that order. In any event there are already two promotional posts in Level-11 and Level-12 in the IT Department. The post of Assistant Registrar (IT) was sought to be created to provide a promotional avenue for a Programmer without considering the impact it would have on persons working as System Analysts, from whom the next promotional post was that of a Senior System Analyst which was below that of an Assistant Registrar (IT). Naturally such creation of the post of Assistant Registrar (IT) would cause disruption in the entire cadre.

11. As far as the present Applicant is concerned, the question of his having any legitimate expectation that he alone should be promoted as Assistant Registrar (IT) does not arise. Consequently, the Court declines to recall or modify the order dated 18th March, 2020.

12. Both these applications are accordingly dismissed.

13. It is clarified that as and when the Applicant's turn arises for any further promotion, it will be duly considered in accordance with law.

14. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021.

(Dr. S. Muralidhar)
Chief Justice

(S.K. Panigrahi)
Judge