

9 MR. J.K. Khuntia
94370 Alr. 26/6/17

IN THE HIGH COURT OF ORISSA; CUTTACK

W.P. (C) NO. 17114 /2010

Code No. 310799

Satyanarayan Choudhury ... Petitioner

versus

Chairman Committee of Chief Engineers,
And Engineer-in-Chief(Civil), Nirman Soudh
Bhubaneswar ...

Opp.Party

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CUTTACK

BY THE PETITIONER THROUGH

Dt.

ADVOCATE

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**IN THE HIGH COURT OF ORISSA: CUTTACK
(ORIGINAL JURISDICTION CASE)**

W.P. (C) No. 17114 /2010

Code No.

In the matter of :

An application under Article 226 and 227 of the Constitution of India;

A N D

In the matter of :

An application challenging the illegal and arbitrary action of the Opp.party in sponsoring the name of the petitioner for appointment of the post of GPTA under the Panchayat Raj Department on contractual basis for one year which is not equivalent to the post of Junior Engineer and it is further prayed for the name of the petitioner shall not be struck down from the panel list prepared by the Opp.party for future appointment as Junior Engineer in the different cadre departments in the State Government even if his name is sponsored for appointment.

A N D

In the matter of :

Satyanarayan Choudhury, aged about 36 years,
S/o. Godabarish Choudhury, At/PO.Belam,
Via-Sankerko, Dist-Mayurbhanj.

..... **Petitioner**

Versus

Chairman Committee of Chief Engineers and Engineer-in-Chief (Civil), Orissa, Nirman Soudha,
At/PO. Bhubaneswar, District-Khurda.

.... **Opp.Party.**

The matter out of which this Writ Petition arises was never before this Hon'ble Court in any manner whatsoever.

To

The Hon'ble Sri V.Gopala Gowda, B.Sc., LL.B., the Chief Justice of Orissa High Court and His Lordship Companion Justices of the said Hon'ble Court.

The humble petition of the
above named petitioner;

MOST RESPECTFULLY SHEWETH:

1. That the petitioner is a Diploma Engineer (Civil) has filed this writ application challenging the illegal and arbitrary action of the Opp.party in sponsoring/recommending the name of the petitioner from the empanel list for Diploma Civil Engineers to work as Grama Panchayat Technical Assistant (GPTA) under the Panchayat Raj Department on contractual basis for one year with a consolidated pay of Rs.5000/- per month instead of Rs.9,300/- prescribed for the Junior Engineers in the State which is not equivalent to the post of Junior Engineer .The petitioner further prayed that his name shall not be struck down from the empanel list prepared by the Opp.Party.
2. That the petitioner is a citizen of India and the cause of action arose within the jurisdiction of this Hon'ble Court as the petitioner resides within the jurisdiction of this Hon'ble Court.
3. That petitioner is good student and after successfully completion of the matriculation examination he has taken admission in the Diploma Engineering (Civil) at Sanjaya Memorial Institute of Technology, Ankuspur, Berhampur. It is respectfully submitted that the petitioner has appeared in the final examination for diploma course held in the year 1993 Accordingly the State Council of Technical Education and Training, Orissa, issued a Diploma Certificate indicating therein that the petitioner having undergone the prescribed course of studies for a period of 3 years in Civil Engineering at Bhubananda Orissa School of

Engineering Cuttack placed in First Division has been declared pass and placed in First Division in the Supplementary 1993 Examination.

4. That it is most pertinent to mention here with that for the Diploma Engineers they are required to register their names in the office of the Opp. party for their future appointment in the different cadre departments as per their requirement and the said cadre departments will avail the Diploma (Civil) Engineers from the said empanel list prepared year wise. Accordingly the petitioner has registered his name in the year 1994 in the office of the Opp. party for his appointment and he is waiting till date for his turn.

5. That while things stood thus the Govt. of Orissa Panchayat Raj Department vide letter dated 16.07.2010 issued to the different Collector-cum-D.P.Cs for engagement of Grama Panchayat Technical Assistants (G.P.T.As) at Block level under MGNREGS. In the said letter it is stated that for effective and smooth implementation of the MGNREGS in the State it has been decided to engage additional 1000 GPTS in different districts on contractual basis with the certain terms and conditions. The GPTA must be a diploma holder in Civil Engineering. The engagement of G.P.T.A. shall be made by the Collector-cum-CEO will request for sponsoring the names. The engagement will be purely contractual for one year (till end of February of each year) subject to Annual renewal on satisfactory performance. The tenure of the posts may be extended till flow of funds under MGNREGS from Govt. of India is available. The G.P.T.A. will get a consolidated remuneration of Rs.5000/- per month. It is further requested to the Collectors to make requisition as per the category to the Chairman Committee of Chief Engineers and Engineer Chief Civil Orissa to sponsor Diploma holders (Civil) for engagement as G.P.T.AS on contractual basis in the district. A copy of the said letter dated 16.07.2010 issued to different Collectors of the State by the Panchayat Department is annexed herewith as **ANNEXURE-1** to this writ application.

6. That it is respectfully submitted here that from the date of registration i.e., from the year 1994, the petitioner name has not been sponsored to any other cadre department for appointment as because his turn has not come as per the empanel list. It is most pertinent to mention here with that the in pursuance of the letter under Annexure-2 again vide order dated 28.08.2010 Govt. of Orissa Panchayat Raja Department issued to different collectors for engagements of Diploma Engineers as G.P.T.As under MGNREGS Scheme. In the said letter it is categorically stated that with reference to this department letter dated 16.07.2010 the names and address of the Diploma Holders (Civil) their year of passing, mark secured. Category sponsored by Chairman Committee of Chief Engineers and Engineering in chief (Civil) Orissa Bhubaneswar vide their letter dated 26.08.2010 and the name of the district placed for posting as GPTA, i.e., Grama Panchayat Technical Assistant under MGNRES and the efforts may be made at your end to ensure that the sponsored Diploma holders get intimated by Regd. Post regarding their engagement as GPTA on contract basis with monthly remuneration of Rs.5000/- and the formalities of Certificate verification/drawl of agreement are completed within one month. In the said letter it is further directed that the names of Diploma holders who executed agreement and assumed duty within the fixed date line stipulated at your end may be intimated to the Panchayat Raj Department as well as to the Chairman Committee of Chief Engineers and Engineer-in-Chief (Civil) Orissa, Bhubaneswar along with the names of the Diploma holders who did not turn up to accept the engagement. A copy of the said letter dtd 28.08.2010 along with the sponsored names including the name of the petitioner is annexed herewith as ANNEXURE-2 to this writ petition.

7. That, it is submitted that with regard to the decision of the Panchayat Raj Department the name of the petitioner along with other persons are being sponsored by the Opp.party for engagement as GPTA in the district of Koraput indicating the year of passing, category and

serial number in the empanelled list for the year 1993 as prepared by the Opp.party. It is respectfully submitted that in pursuance to the order under Annexure-3 the District Rural Development Agency, Koraput has issued a letter dated 04.09.2010 to the petitioner indicating that the name of the petitioner has been suggested and sponsored by the Engineer-in-Chief for engagement of GP/A for contractual basis under MGNREGS to be posted in different blocks of Jharsuguda District with a consolidated remuneration of Rs.5000/- per month. A copy of the said letter dated 04.09.2010 is annexed herewith as ANNEXURE-3 to this writ petition.

8. That, the fact remains that the petitioner has waited a substantial period for his turn to be appointed as Junior Engineer in the cadre department with the minimum scale of pay of Rs.9300/- as like the other diploma holders appointed in the different Departments. It is most pertinent to mention here with that the opp.party has sponsored the names of the diploma holders earlier to the office of the Engineer-in-Chief Water Resources Orissa, where in the sponsored candidates have been appointed as Junior Engineers on contract basis on a consolidated salary of Rs.9,300/- per month. Whereas the petitioner being a diploma holder will be engaged on Rs.5000/- per month in the Panchayat Raj Department for one year only on contractual basis which is not sacrosanct under the law more particularly not equivalent to the post of J.E. . A copy of the letter dated 30.03.2010 issued by the Engineer-in-Chief Water Resources to all sponsor candidates is annexed herewith as ANNEXURE-4 to this writ petition.

9. That the State Government has adopted contractual mode of engagement personnel in different Government establishment with payment of fixed sum as consolidated remuneration per month and procedure for such engagement has been set out in Finance Department Circular dated 31.12.2004 and 7th July,2008 that the Junior Engineers are engaged in different departments on contractual basis with

consolidated remuneration of Rs.5000/- and PTA Rs.350/- total Rs.5,350/- per month but subsequently same has been enhanced to Rs.9,300/- But in the present case in hand the petitioner will get only Rs. 5000/- per month and the terms of contract is only for one year for which the petitioner is not interested for the said contractual job and the GPTA.

10. That the name of the petitioner is sponsored by the Opp. party to the Panchayat Raj Department for appointment which is not a cadre department and that apart once his name is sponsored and he will not opt the job, the name of the petitioner will be struck down from the said empanelled list prepared by the Opp.party . It is not out of place to mention here with that the petitioner has registered his name for a better job with continuity in service but the present appointment with lesser salary and no guaranty in the future service is illegal and is discrimination on the part of the authority.

11. That the appointment of the petitioner on contractual basis as Grama Panchayat Technical Asst. for a period of one year, which is a project work funded by the Central Government , once the project is closed the service of the petitioner will be terminated automatically and he will not be sponsored by the Opp.Party for appointment in any other department in future as because his name would have been struck down from the empanelled list prepared for the diploma holders in the State . In the aforesaid premises the Hon'ble Court may interfere that if the petitioner forgo his contractual appointment under Annexure-3 his name should not have been struck down from the empanel list for future appointment.

12. That the petitioner humbly submits that the Panchayat Raj Department is not a cadre department of the Opp.Party where the service of the petitioner will be regularized. The petitioner humbly and boldly submits that he has no hesitation and objection to accept the offer for appointment on contractual basis if the salary will be equal at par with the

Junior Engineers appointed on contractual basis in other department having job security. It is vital to mention here with that if the petitioner will avail the contractual appointment in the Panchayat Raj Department his name will be struck down and if he will avail also his name will be struck down from the empanelled list for which the Hon'ble Court may interfere in the matter for the interest of justice.

13. That the petitioner apprehends that once he will opt the appointment as GPTA under the Panchayat Raj Department and if his service will be terminated after closure of the Project, he will be on the street since he became age barred to get any appointment in the Government Organization so also in the private sector apart from that his name will be struck down from the panel list prepared by the Opp.Party for his future appointment. The petitioner has waited patiently for 16 years to get appointment from the empanelled list, but the present appointment is a bolt from the blue for which it is a fit case, where the Hon'ble Court may interfere.

14. That in the above facts and circumstances of the case, the Hon'ble Court direct the Opp.party not to struck down the name of the petitioner from the empanelled list if the petitioner will not opt the post of Grama Panchayat Technical Assistant (GPTA) under the Panchayat Department since the appointment violating the basic norms and conditions for appointment of Junior Engineers in the State Government from time to time.

15. That the petitioner having found no other alternative or efficacious remedy has approached this Hon'ble Court for seeking relief without any unreasonable delay.

PRAYER

Under the above circumstances it is prayed that this Hon'ble Court be pleased to issue a writ in the nature of mandamus or any other

appropriate writ/writs directing the Opp.party not to struck down the name of the petitioner from the empanelled list for diploma holders prepared by the Opp.party for appointment of Junior Engineer in the different cadre department even after the petitioner forgo the contractual appointment as Grama Panchayat Technical Asst. (GPTA) in the Panchayat Raj Department under Annexure-2 since the said post and salary is not equivalent to the Junior Engineer in the State Government.

And further be pleased to pass any other writ/writs and order/orders as this Hon'ble court may deem fit just and proper.

And for this act of kindness the petitioner shall as in duty bound shall ever pray.

Cuttack

By the petitioner through

Dated :

Advocate

A F F I D A V I T.

I, Satyanarayan Choudhury, aged about 36 years, S/o. Godabarish Choudhury, At/PO.Belam, Via-Sankerko, Dist-Mayurbhanj, do hereby solemnly affirm and state as follows :-

1. That I am the petitioner in this writ petition.
2. That the facts stated above are true to the best of my knowledge and belief.

Identified by

Advocate

Deponent.

C E R T I F I C A T E

Certified that due to non-availability of cartridge papers this fact has been typed in thick blue paper.

Advocate.