



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.23909 of 2024

An application filed under Articles 226 and 227 of the Constitution of India.

Arobinda Biswal and another Petitioners

-versus-

State of Odisha and others Opposite Parties

Advocate(s) appeared in this case:-

For Petitioners

...

Mr. B.S. Tripathy(1),
Senior Advocate

Assisted by Mr. A. Tripathy
& Mr. A. Sahoo, Advocates

For Opposite Parties ...

Mr. D.K. Sahu, A.G.A.
(For O.P. Nos.1 to 3)

M/s. Pabitra Kumar Nayak,
H.B. Dash, K.K. Jena,
S.K. Samal
(For O.P. Nos.4 to 9)

CORAM:

THE HON'BLE MR. JUSTICE ADITYA KUMAR MOHAPATRA

Date of Hearing : 13.03.2026 :: Date of Judgment: 25.06.2026

Aditya Kumar Mohapatra, J. :

1. The Petitioners, who are working as Group-D employees under Jagatsinghpur District, have approached this Court by filing the present writ petition with a prayer for a declaration that the



DPC proceeding held on 05.04.2023 with consequential promotion orders issued in favour of the private-Opposite Party Nos.4 to 6 by Office Order at Annexure-9 series and the DPC proceeding held on 05.04.2023 with consequential promotion orders given to private-Opposite Party Nos.7 to 9 at Annexure-10 are bad, illegal and void ab initio. A further prayer has also been made for a direction to the Opposite Party Nos.1 to 3 to first recast the vacancy positions as indicated in Annexure-5 as on 24.11.2022 in terms of the order passed in the previous writ petition bearing WP(C) No.33857 of 2022 dated 13.12.2022 at Annexure-7 and to reconsider the case of the promotion of Group-D employees of Jagatsinghpur Education District as against 20% quota for promotion to the post of Junior Assistant (Group-C) from Group-D posts, as was introduced by way of an amendment vide Resolution dated 24.11.2022 to the OMS Rules, 2019. The Petitioners have also prayed for a direction to the Opposite Parties to give them promotion to the post of Junior Assistant with retrospective effect as has been done in the case of Opposite Party Nos.4 to 6 and 7 to 9.

2. The factual background of the Petitioners' case leading to filing of the present writ petition, in a nutshell, is that initially the



Petitioners were duly appointed against Group-D posts in the Education District of Jagatsinghpur. While the Petitioners were discharging their duties as Group-D employees in the above-noted Education District, the Government of Odisha promulgated the ‘Odisha Ministerial Service (Method of Recruitment and Conditions of Service of Junior Assistants, Senior Assistants and Section Officers in the District Offices and offices Sub-ordinate thereto) Rules, 2019’ (hereinafter referred to as “OMS Rules, 2019”). The OMS Rules, 2019 was notified on 08.03.2019 therein providing a window for the Group-D employees for promotion to the post of Junior Assistant (Group-C). As per the provision contained in Rule 8, a 10% of total vacancy in the post of Junior Assistant in the office of the District Offices and offices sub-ordinate thereto were reserved for Group-D employees of the District Offices of the concerned district, which was then to be filled up on the basis of the recommendation of the Departmental Promotion Committee (DPC) constituted under sub-rule 1 of Rule 11.

3. While the matter stood thus, the Government of Odisha, by way of an amendment vide resolution dated 24.11.2022 by the GA & PG Department, Government of Odisha, at Annexure-4 to the



writ petition, enhanced the existing quota of 10% of Junior Assistant (Group-C) posts reserved for Group-D employees to 20%. However, all other provisions of the OMS Rules, 2019 were kept intact. The aforesaid resolution dated 24.11.2022 was published in the Gazette Notification thereby amending the rules as per the Notification dated 07.01.2023 at Annexure-A/4 to the counter affidavit filed by the private-Opposite Party Nos.4 to 9.

4. On a careful scrutiny of the writ petition it is further revealed that after the resolution was published on 24.11.2022, the Director, Secondary Education, Odisha issued a letter to the Odisha Sub-Ordinate Staff Selection Commission with a requisition for selection of 2,333 number of Junior Assistant posts in Government Secondary Schools, office of the BEOS and DEOS under the S&ME Department. A breakup of the posts in a tabular form has been appended to the letter dated 25.11.2022 at Annexure-5. The tabulation gives a clear picture of the entire vacancy in different districts of the State of Odisha. On 26.12.2022, the Joint Director of the office of the Directorate of Secondary Education, Odisha issued a circular letter to all DEOs in the State in the context of filing of the requisition/ revised requisition for selection of Junior Assistant posts in Government



Secondary Schools, office of BEOs and DEOs under the S&ME Department. The aforesaid letter clearly reveals that the promotional quota for Group-D employees has been enhanced from 10% to 20%. As such, the Petitioners have asserted that by the time such requisition was issued by the Government of Odisha, the aforesaid amendment to the extent of enhancing the reservation of posts for Group-D employees in Junior Assistant (Group-C) posts was enhanced to 20%.

5. The decision of the Government vide letters dated 25.11.2022, 29.11.2022 and 02.12.2022 was challenged before this Court by some of the aggrieved parties by filing W.P.(C) No.33857 of 2022. The principal ground taken therein was that such letters are contrary to the Resolution of the Government dated 24.11.2022, which has been annexed to the present writ petition as Annexure-4. Further, a prayer was also made for a direction to the Opposite Parties to recast the category-wise break-up of vacancies of base-level posts of Junior Assistant in the office of the Government Secondary Schools, DEOs and BEOS by taking into consideration 20% of the total vacancies reserved for promotion from Group-D category. A coordinate bench of this court vide order dated 13.12.2022, after taking into consideration the



Resolution dated 24.11.2022, allowed the writ petition keeping in view the enhancement of the posts of Junior Assistant reserved for the category of Group-D employees and, accordingly, the letters under Annexures-8, 9 and 10 of that writ petition were quashed. Further, the matter was remitted back to the Opposite Party No.2, i.e., Director Secondary Education, Odisha, Bhubaneswar, to recast the list of vacancies of base-level posts of Junior Assistant in terms of the Resolution dated 24.11.2022 at Annexure-4 to the present writ petition.

6. While this was the position, a DPC meeting was convened in respect of the Jagatsinghpur Education District and was held on 05.04.2023. A copy of the minutes of the proceedings held on 05.04.2023 has been filed along with the present writ petition as Annexure-9. A perusal of the minutes of the proceeding reveals that the DPC was constituted under the Chairmanship of the District Education Officer, Jagatsinghpur, and four other members. The Petitioners have challenged the constitution of such committee on the ground that it is not conformity with Rule 11 of the OMS Rules, 2019. Moreover, the minutes of the proceeding dated 05.04.2023 reveals that the District Education Officer has informed that out of the 42 Junior Assistant posts which are lying



vacant during the month of September 2022, 10% of vacancies, i.e., 4 Junior Assistant posts, are filled up by way of promotion, as laid down by the Government in its notification dated 08.03.2019, on the basis of the seniority, amongst the 7 candidates that found place in the eligible list.

7. Consequent upon such decision of the DPC, the Opposite Party Nos.4, 5 and 6 were given promotion to the post of Junior Assistant as per Annexure-9 series. On perusal of later proceeding of the meeting dated 28.02.2024 it is revealed that in the said meeting, 20% reserved vacancy in the post of Junior Assistant for Group-D employees was taken into consideration and the committee decided to fill up three posts, ignoring the reservation in vacancy as has been provided in Rule-8 and subsequently amended vide Resolution dated 24.11.2022. As per the recommendation of the second DPC which was presided over by the Collector, names of three persons were recommended and they were given promotion to the post of Junior Assistant who are Opposite Party Nos.7, 8 and 9 to the present writ petition.

8. Heard Mr. B.S. Tripathy, learned Senior Counsel appearing for the Petitioners as well as learned Additional Government Advocate for the State-Opposite Parties and Mr. S.K.



Samal, learned counsel appearing for the private-Opposite Party Nos.4 to 6 and 7 to 9. Perused the pleadings of the respective parties as well as documents available on record.

9. Mr. B.S. Tripathy, learned Senior Counsel appearing for the Petitioners, at the outset contended that both the DPCs held on 05.04.2023 as well as on 28.02.2024 are illegal, inasmuch as they have not been carried out in terms of the OMS Rules, 2019 and the consequential amendment of the Rules, 2019 vide Resolution dated 24.11.2022. He further submitted that the Opposite Parties without first complying with the order passed by the coordinate bench on 13.12.2022 in WP(C) No.33857 of 2022 at Annexure-7, have proceeded with the selection of the candidates for promotion to the post of Junior Assistant from among the Group-D employees of the district office. Mr. Tripathy, learned Senior Counsel for the Petitioners further contended that initially the OMS Rules, 2019 in Rule-8 provided for reservation of 10% of the seat of Junior Assistant (Group-C) posts for promotion from among the Group-D staff of the District Education Office including the schools. However, the same was subsequently amended by way of a Resolution dated 24.11.2022 which was also duly published in the Official Gazette on 07.01.2023 as per



Annexure-A/4 to the counter affidavit of Opposite Party Nos.4 to 9.

10. In course of his argument, learned Senior Counsel appearing for the Petitioners further contended that although the share of the posts for Group-D employees in the post of Junior Assistant, which is a promotional post, was enhanced from 10% to 20%, however, the breakup list of the district-level Group-D staffs were not amended as per the direction of the coordinate bench of this court vide order dated 13.12.2022. He further contended that without first carrying out the exercise of revising or recasting the list providing breakup of the Group-D staffs of the district, the DPC proceeded with the selection of the candidate for promotion to the post of Junior Assistant. He further argued that the first DPC which was convened on 05.04.2023 was not constituted in terms of Rule-11 of the OMS Rules, 2019. In the aforesaid context, learned Senior Counsel for the Petitioners referred to the proceedings of the meeting held on 05.04.2023 as well as on 28.02.2024. So far the meeting held on 05.04.2023 is concerned, it appears that the same was presided over by the DEO, Jagatsinghpur whereas the meeting that was held on 28.02.2024 was presided over by the Collector, Jagatsinghpur. Thus, learned Senior Counsel for the



Petitioners contended that the constitution of the DPC and the meeting of which was held on 05.04.2023 and recommended the names of Opposite Party Nos.4 to 6, was illegally constituted. Therefore, the recommendation of such committee is a nullity in the eyes of law.

11. With regard to the recommendation made by the second DPC on 28.02.2024, learned Senior Counsel for the Petitioners contended that although the committee was constituted in terms of Rule-11 of the OMS Rules, 2019, however, such committee has not carried out the selection as is required under the Rules. In the aforesaid context, he further submitted that before convening the DPC meeting on 28.02.2024, neither the vacancy position was ascertained nor the posts which were kept reserved for the Group-D Staff in the post of Junior Assistant, as is provided under Rule-8 of the OMS Rules, 2019, were determined and notified. The DPC, which was convened on 28.02.2024, was convened abruptly and they picked up some names randomly and they have given promotion to the Opposite Party Nos.7 to 9. On the aforesaid grounds, the learned Senior Counsels appearing for the Petitioners contended that the both the DPCs proceeded on the breakup list that was prepared prior to the year 2022 and which was



specifically quashed by the learned coordinate bench vide its order dated 13.12.2022 passed in WPC No.33857 of 2022. On such grounds, the learned Senior Counsel for the Petitioners contended that the selection of the Opposite Party Nos.4 to 6 and 7 to 9 are absolutely illegal and void in the eyes of law.

12. Learned counsel appearing for the Opposite Party Nos.4 to 6 and 7 to 9, on the other hand, supported the action of the Opposite Parties in convening the DPC meeting both on 05.04.2023 as well as on 28.02.2024. In course of his argument, learned counsel for the Opposite Party Nos.4 to 9 submitted before this court that the private-opposite parties appeared in the recruitment test and they came out successful in the skill test that was conducted by the Opposite Parties. He further asserted that the private-opposite parties are senior and experienced and that they have been selected on the basis of their performance in the skill test as well as on the basis of their seniority and experience. Upon such grounds, learned counsel for the private-opposite parties contended before this court that the opposite parties have not committed any illegality in selecting and giving promotion to the private-Opposite Party Nos.4 to 6 and 7 to 9.



13. Further, referring to the minutes of the proceeding dated 28.02.2024 at Annexure-10 series to the writ petition, learned counsel for the Petitioner, drawing attention of this court to the portion of such minutes of the meeting where the DPC has dealt with the reservation of posts for the Group-D employees, stated before this Court that such issue has been specifically dealt with in terms of the letter dated 28.12.2018 of the Revenue & Disaster Management Department, Government of Odisha, and further referring to the proviso to Section-4 of the ORV Act, 1975, the committee has held that there shall be no reservation in the vacancies to be filled-up by promotion where there is element of direct recruitment in the grade or cadre, in which the vacancies have occurred, is more than sixty-six and two-third per cent. This Court, on a careful consideration of the aforesaid paragraph, found that the ORV Act has been quoted out of the context and in an incorrect manner.

14. Moreover, such paragraph does not convey any definite sense. Ultimately, the committee has held that no reservation principle is applicable while promoting Group-D employees to the post of Junior Clerk. This Court further observes that although the issue was with regard to promotion to the post of Junior Assistant,



however, the committee has come to a conclusion that no reservation would be applicable to the post of Junior Clerk while promoting Group-D employees. In any event, learned Counsel for the Private-Opposite Parties, referring to the aforesaid analysis made by the DPC in its meeting held on 28.02.2024, made an attempt to support the promotion given to the private-Opposite Parties Nos.7 to 9, and further contended that since such appointment has been made by a duly constituted committee in terms of Rule-11 of the OMS Rules, 2019, it cannot be held that the recommendation is illegal or void. On such ground, learned counsel for the private-opposite parties Nos.4 to 6 and 7 to 9 prayed for dismissal of the writ petition.

15. Mr. D.K. Sahu, learned Additional Government Advocate appearing on behalf of the State-Opposite Parties, referred to the counter affidavit filed by the District Education Officer, Opposite Party No.3. By referring to the counter affidavit, learned Additional Government Advocate, while supporting the conduct of the Opposite Parties in selecting and giving promotion to the private-Opposite Party Nos.4 to 6 and 7 to 9, at the outset contended that the Opposite Parties have not committed any illegality or violated the provisions of the rule. In the course of his



argument, learned Additional Government Advocate drew the attention of this Court to various paragraphs of the counter affidavit, made an attempt to convince this Court with regard to the legality and validity of both the proceedings held on 05.04.2023 as well as on 28.02.2024.

16. On perusal of the para-8 of the counter affidavit, it appears that Opposite Parties have defended the conduct of the DPC that took place on 05.04.2023 and which had taken into consideration 10% of the vacancies in the post of Junior Assistant while giving promotion to the Group-D employees. The learned Additional Government Advocate, by referring to paragraph-8 of the counter affidavit, tried to justify the conduct of the Opposite Parties by saying that earlier the 10% vacancy was filled up. However, in view of the latest amendment by virtue of the Resolution dated 24.11.2022, the rest of the 10% vacancy were to be filled up, and accordingly, the DPC in its meeting held on 05.04.2023 considered the case of the balance 10% candidates of the previous years. Consequently, on the basis of merit of the Opposite Party Nos.4 to 6, they were duly selected and have been given appointment.

17. So far the claim of the present Petitioners is concerned, the learned Additional Government Advocate emphatically argued



that although the Petitioners participated in the selection process, however, they were not found suitable for the post. Accordingly, their cases were not considered by the DPC. He further contended that the Petitioners, having participated in the recruitment process, are estopped from challenging the same after they were not selected by the DPC for promotion to the post of Junior Assistant. On the aforesaid ground, learned Additional Government Advocate contented before this Court that the Opposite Parties have not committed any illegality. As such, the DPC meetings held on 05.04.2023 as well as on 28.02.2024 were in accordance with the rules and that no fault can be found with the DPC recommending the names of the private-Opposite Party Nos.4 to 6 and 7 to 9. In such view of the matter, learned Additional Government Advocate contented that the present writ petition is devoid of merit, and, as such, is liable to be dismissed.

18. Having heard the learned counsels appearing for the respective parties and on a careful consideration of their submissions, pleadings as well as the documents annexed to the present writ petition, this Court observes that the issue involved in the present writ petition is with regard to the validity of the DPC proceedings held on 05.04.2023 and 28.02.2024, as well as the



recommendation of such DPC and consequential promotion given to the private-Opposite Party Nos.4 to 6 and 7 to 9 to the post of Junior Assistant from among the Group-D employees of the District Education Offices. To answer the aforesaid question, this Court is required to test the validity of both the DPC meetings which were held on 05.04.2023 as well as on 28.02.2024.

19. On a close scrutiny of the OMS Rules, 2019, it appears that originally the Rule was framed in the year 2019, thereby providing 10% reservation in the post of Junior Assistant for the employees belonging to the Group-D service who are working in different Secondary Schools as well as in the office of the DEOs and in the BEOs of the concerned district. Such promotion was to be given by a DPC which was required to be constituted in terms of Rule 11 of the aforesaid OMS Rules, 2019. However, the said Rule was admittedly amended in the year 2022 by virtue of the Government Resolution dated 24.11.2022, at Annexure-4 to the writ petition, to the effect that the percentage of reservation was altered and the same was enhanced from earlier 10% to 20%. The other provisions of the OMS Rules, 2019 remained intact.

20. It would be apposite to mention here that after the Rules were amended, some of the Group-D employees approached this



court by filing a writ petition, as has been narrated in detail in the preceding paragraphs. The learned coordinate bench vide order dated 13.12.2022 disposed of the writ petition thereby quashing the letters at Annexures-8, 9, and 10 of the said writ petition. On perusal of order dated 13.12.2022, it appears that the learned counsel appearing for the School and Mass Education Department admitted before the coordinate bench that the list containing breakup of the vacancies dated 25.11.2022, i.e. post 24.11.2022 when the Rule was amended, was not in conformity with the Rules and that the same is contrary to the Resolution dated 24.11.2022.

21. On the basis of the aforesaid categorical admission of the learned counsel for the State, the learned coordinate bench proceeded with the adjudication of the writ petition and eventually came to hold that the breakup of vacancies as indicated in the list dated 25.11.2022 is not in conformity with the Resolution dated 24.11.2022 and that it doesn't reflect the correct vacancy position as has been provided vide Resolution dated 24.11.2022. Finally, the learned coordinate bench quashed the impugned breakup of vacancy list dated 25.11.2022 and remanded the matter back to the Director, Secondary Education, Odisha, to recast the breakup of vacancy list of the base level posts of Junior Assistant in terms of



the Resolution dated 24.11.2022. The Resolution dated 24.11.2022, as is evident from the counter affidavit filed by the Opposite Party Nos.4 to 9, reveals that the same was published in the Official Gazette of the Government of Odisha dated 09.01.2023, and the same has been annexed to the counter affidavit of the Opposite Party Nos.4 to 9 as Annexure A/4.

22. This Court carefully examined the Gazette Notification at Annexure A/4 to the counter affidavit of the Opposite Party Nos.4 to 9. On perusal of the said notification, it appears that a new Rule was promulgated, which is called the ‘Odisha Ministerial Services (Method of Recruitment and Conditions of Service of Junior Assistant, Senior Assistant, and Section Officers in the District Offices and Offices Sub-ordinate thereto) Amendment Rules, 2022’ (hereinafter “2022 Rules”). The 2022 Rules were promulgated to further amend the OMS Rules, 2019 and provide the manner and mode of selection of the candidates. The said Rules further amended Rule 8 of the original OMS Rules, 2019, thereby inserting a new sub-rule (2) and (3). However, such amendment nowhere touched the 10% posts reserved in Junior Assistant posts for the Group-D staffs. The amendment of the year



2022 introduces a new appendix prescribing the scheme and subject for the examination.

23. So far promotion from the Group-D post to Group-C post is concerned, the original G.A. & P.G. Department Resolution No.15059/Gen dated 29.07.2010 and Resolution dated No.13012 dated 04.06.2020 provided that the promotion quota of Group-D employees in Group-C post in different cadres in the State shall not be less than 10%. Obviously, such promotion shall be subject to the concerned candidate fulfilling the eligibility criteria, such as educational qualification and other qualification, including knowledge in computer operation as has been prescribed in the rules. Later on, it was observed by the State Government that very few Group-D employees are getting opportunity for promotion to Group-C post under the existing quota of 10%. The G.A. & P.G. Department, Government of Odisha after a careful consideration decided to raise the said promotion quota from 10% to 20% in order to provide a wider scope for promotion of Group-D employees to different Group-C posts in different cadres in the State. This was approved vide Resolution dated 24.11.2022 at Annexure-4 to the writ petition, a copy of which has also been



attached to the counter affidavit filed on behalf of the State-
Opposite Party.

24. The enhancement of above noted quota for promotion to Group-C post from 10% to 20% also gets support from the circular letter of the Directorate of Secondary Education, Odisha, Bhubaneswar dated 26.12.2022 at Annexure-6. The letter of the Joint Director dated 26.12.2022 is quoted herein below:-

“DIRECTORATE OF SECONDARY EDUCATION, ODISHA, BHUBANESWAR
No.2B-39/2018-II-32043//Dt. 26.12.22

To

All the District Education Officers of the State

Sub: Filing of requisition/revised requisition for selection of Jr. Asst. posts in Govt. Secondary Schools, O/o. BEOs, and DEOs under S&ME Dept.

Ref: This Directorate Letter No.29982 dt.29.11.2022

Madam/Sir,

In inviting a reference to the subject and letter cited above, I am to say that you were requested vide this directorate letter under reference to file requisition for filling up of Jr. Asst. posts in Govt. Secondary Schools, O/o. BEOs, and DEOs under S&ME Dept keeping 10% of the vacancy of Jr. Asst. post for filling up by way of promotion of Group-D employees. Now Govt. in GA Department vide their Resolution No.33329/Gen., DT. 24.11.22 have enhanced the promotion quota of Group-D employees from 10% to 20%.

Hence you are requested to file requisition/revised requisition for selection of Jr. Asst. posts in Govt. Secondary Schools, O/o. BEOs, and DEOs under S&ME Dept., keeping 20% of the vacancy of Jr. Asst. posts for filling up by way of promotion of Group-D employees.

Yours faithfully,
Joint Director”

25. Despite Resolution of the G.A. & P.G. Department, Government of Odisha, dated 24.11.2022, some of the Departments did not adhere to the provisions newly introduced by



virtue of the aforesaid Resolution. Accordingly, some of the Petitioners approached this Court by filing the W.P.(C) No.33857 of 2022. A Bench of this Court vide order dated 13.12.2022, while testing the validity of letters dated 25.11.2022, 29.11.2022 and 02.12.2022, considered the aforesaid issue of the percentage of reservation in Group-C post for the Group-D employees. The learned Coordinate Bench, while upholding the enhancement of reservation from 10% to 20%, in para-6 of the order, has observed as follows:-

“Having heard the learned counsel for the parties and after going through the records, this Court is of the considered view that since the Government, as a matter of principle, has decided to enhance the promotion quota of Group-D employees from 10% to 20% in order to provide them wider scope for promotion to different Group-C posts of Junior Assistant, the list of break up vacancies in the base level posts of Junior Assistant in the offices of DEO/BEO and Govt. High Schools under Annexure-8 prescribing 10% vacancies for promotion from Group-D to Group-C posts, cannot sustain in the eye of law and, as such, the same is in gross violation of the resolution dated 24.11.2022 under Annexure-7. Thereby, the list of break up vacancies in the posts of Junior Assistant in the offices of the DEO/BEO and Govt. High Schools and approval of the empowering committee thereof, vide Annexures-8, 9 and 10, cannot sustain. Accordingly, the same are hereby quashed. The matter is remitted back to opposite party no.2-Director, Secondary Education, Odisha, Bhubaneswar to recast Annexure-8, the list of



break up vacancies of the base level posts of Junior Assistant in the offices of DEO/BEO and Govt. High Schools in terms of the resolution dated 24.11.2022 under Annexure-7 as expeditiously as possible, preferably within a period of four weeks from the date of communication/production of this order.”

26. While this was the position, the confusion with regard to the percentage of quota again arose in the year 2024. The District Education Officer, Puri sought for a clarification from the Directorate of Secondary Education, Odisha, Bhubaneswar. The Directorate vide its letter No.22533 dated 09.08.2024 at Annexure-11 to the writ petition, by referring to the Resolution No.33329/Gen dated 24.11.2022, had issued clear instruction that 20% of vacant posts of Junior Assistant will be filled by way of promotion from amongst the Group-D employees. The relevant portion of the letter is quoted hereinbelow for better appreciation:-

“Govt. in GA Department vide their Resolution No.33329/Gen. dated 24.11.22 have decided that 20% of vacant post of Junior Assistant will be filled by way of promotion of Group-D employees.”

27. The aforesaid clarification of the Director leaves no room for doubt that the Resolution dated 24.11.2022 has enhanced the percentage of quota for Group-D employees for promotion to Group-C post from 10% to 20%. Accordingly, all concerned were



requested to take necessary steps for promotion of Group-D employees to Junior Assistant post as per Resolution dated 24.11.2022 at Annexure-4 to the writ petition.

28. The argument advanced by Mr. B.S. Tripathy, learned Senior Counsel appearing for the Petitioners emphatically supporting the decision of the Government vide Resolution dated 24.11.2022 with regard to enhancement of the quota from 10% to 20% also gets support from the Gazette Notification dated 31st March, 2023. The G.A.&P.G. Department, Government of Odisha, by virtue of the Gazette Notification dated 31st March, 2023 amended the Rules, 2019 by virtue of the Amended Rules, 2023. The copy of the Gazette Notification has also been filed as Annexure-12 and the same has been attached to the rejoinder affidavit filed by the Petitioners. On a careful scrutiny of the Gazette Notification No.709 dated 31st March, 2023, this Court observes that as per the amending Rule-2, the Rule-6(1) of the existing Rules, 2019 was amended and the figure and expression “90%” has been substituted by the figure and expression “80%”. The impact of such amendment could be that the direct recruitment to Group-C Junior Assistant post would be confined to 80%. Similarly, the amending Rule-3 seeks to amend Rule-8(1) of the



existing rule to the extent that the expression “10%” has been substituted by “20%”. Since the rule was amended thereby enhancing the percentage of quota for promotion from Group-D post to Junior Assistant post in different cadres in the State of Odisha by virtue of the Gazette Notification dated 31st March, 2023 at Annexure-12, such amendment enhancing the percentage of quota would come into effect from the date of Notification in the Odisha Gazette dated 31st March, 2023 i.e. the date on which the 2019 Rule was amended thereby enhancing the percentage of quota from 10% to 20%. In view of the aforesaid position, this Court has no hesitation in coming to a conclusion that the enhancement of the quota for recruitment to the post of Junior Assistant from Group-D post shall be 20% w.e.f. 31st March, 2023 when the rule was amended incorporating such enhancement in the reservation of such post.

29. The aforesaid finding of this Court with regard to enhancement of the quota from 10% to 20% w.e.f. 31st March, 2023 also gets support from the order passed by the learned Coordinate Bench on 13.12.2022 in W.P.(C) No.33857 of 2022 (*Sanjib Kumar Singh & Ors. v. State of Odisha & Ors.*). The order dated 13.12.2022 further reveals that the impugned letters



dated 25.11.2022, 29.11.2022 and 02.12.2022 were all quashed in view of the fact that they are in gross violation of the Resolution dated 24.11.2022. Finally, the learned Coordinate Bench remitted the matter back to the Director, Secondary Education, Odisha to recast the list of break-up of vacancies of the base level posts of Junior Assistant in the offices of DEO/BEO and Govt. High Schools in terms of the Resolution dated 24.11.2022. On perusal of the record, it is further revealed that the decision of the Coordinate Bench vide order dated 13.12.2022 was communicated to all concerned by the Directorate.

30. Reverting back to the facts of the present writ petition, the Petitioners, being aggrieved by the decision of the DPC held on 05.04.2023 giving consequential promotion to private Opposite Party Nos.4 to 6 and the DPC held on 05.04.2023 giving consequential promotion to private Opposite Party Nos.7 to 9, have approached this Court with a prayer to quash the recommendation of the DPC for promotion on the ground that the same is contrary to the Resolution dated 24.11.2022 as well as the Gazettee Notification dated 31.03.2023. On a careful consideration of the submission made by the counsels representing the respective parties, this Court is of the view that the argument



advanced by the learned Senior Counsel appearing for the Petitioners contains substance. Thus, the prayer made by Petitioners in the present writ petition requires a thorough scrutiny keeping in view the analysis made hereinabove by this Court.

31. In view of the detailed analysis made hereinabove and further keeping in view the G.A.&P.G. Department Resolution dated 24.11.2022 as well as the Gazette Notification dated 31.03.2023 which came into effect from 31.03.2023, this Court is of the view that a total of 20% posts in Junior Assistant should have been kept reserved and filled up from among the Group-D employees subject to their satisfying the other eligibility criteria as prescribed in the rules. Since the State-Opposite Parties have not followed the original rules as well as the amendment thereof in the year 2023, particularly in view of the amendment of the year 2023 which came into force w.e.f. 31.03.2023, this Court is of the considered view that the State-Opposite Parties have not followed the rules scrupulously while filling up the post of Junior Assistant in different cadres in the State of Odisha.

32. In view of such analysis and finding, this Court has no hesitation in quashing the recommendation of the DPC dated 05.04.2023 giving promotion to the private Opposite Parties No.4



to 9 as well as the consequential promotion order issued in favour of such private Opposite Parties. This Court further directs the Opposite Party No.2 i.e. the Director, Secondary Education, Odisha, Bhubaneswar to review all such promotions given after 31.03.2023. In the event the Opposite Party No.2 comes to a conclusion that the provisions of the Amended Rules, 2023 notified in the Gazette dated 31.03.2023 has not been followed, such cases be reviewed after providing adequate opportunity to the persons who are likely to be affected. Every endeavour shall be made by the Opposite Party No.2, through the concerned DEOs/BEOs, to ensure that the provisions of the amended rules, 2023 is complied with strictly.

33. This Court further observes that in so far as any direct recruit appointed against the Group-D promotion quota and continuing in service are concerned, the cases of such employees shall be considered and every endeavour shall be made to adjust them against any vacant posts in the year of recruitment or the subsequent years. Such a direction is being given considering the fact that such direct recruitment employees are not at fault and that they cannot be made to suffer because of the illegal action of the



State-Opposite Parties. Let the entire exercise be carried out within three months.

34. The writ petition stands allowed. However, there shall be no order as to costs.

(Aditya Kumar Mohapatra)
Judge

Orissa High Court, Cuttack
The 25th June, 2026/ Anil Kumar Sahoo, Jr. Steno/
Debasis Aech, Secretary