AFR

ORISSA HIGH COURT : CUTTACK

W.P.(C) No.18436 of 2021

CNR No. ODHC010389082021

In the matter of an Application under
Articles 226 and 227 of the Constitution of India, 1950.

***

Sri Banamali Sahoo
Aged about 59 years
Son of Judhistir Sahoo
At: Ratai, P.O.: Bada Kaurda
District: Balasore
Presently serving as
Section Officer
In the Office of the Dean Research
Odisha University of
Agriculture and Technology
Bhubaneswar. ... Petitioner

-VERSUS-

1. Chancellor
Odisha University of
Agriculture and Technology
Raj Bhawan
Bhubaneswar
District: Khordha.

2. Vice Chancellor
Odisha University of
Agriculture and Technology
Siripur, Bhubaneswar
District: Khordha.

3. Commissioner-*cum*-
Secretary to Government of Odisha
Department of Agriculture and
Food Production, Odisha
Secretariat, Bhubaneswar
District: Khordha.

4. Registrar
Odisha University of
Agriculture and Technology
Siripur, Bhubaneswar
District: Khordha.

5. Ashirbad Satpathy
Placement Officer
Under the Control of Dean
PGF-*cum*-DRI
Odisha University of
Agriculture and Technology
Bhubaneswar. … Opposite Parties.

Advocates appeared in the case:

For the Petitioner	:	M/s. Satya Narayan Mohapatra, Sonali Mohapatra, Ashok Aurovindo Mohanty, Advocates.
For the Opposite Party No.3	:	Mr. Debaraj Mohanty Additional Government Advocate
For the Opposite Party Nos.2 and 4	:	Mr. Soumik Spandan Tripathy, Pritam Pradhan, Suman Priyadarshini, Priti Pragyan Das, Advocates.
For the Opposite Party No.5	:	Mr. Biswabihari Mohanty, Advocate.

P R E S E N T:

HONOURABLE JUSTICE
MR. MURAHARI SRI RAMAN

Date of Hearing : 11.08.2026 :: Date of Judgment : 27.08.2026

JUDGMENT

MURAHARI SRI RAMAN, J.—

Assailed in the writ petition, filed to invoke provisions of Articles 226 and 227 of the Constitution of India, are the Office Order dated 26.12.2015 passed by the Vice-Chancellor of the Odisha University of Agriculture and Technology, Bhubaneswar (abbreviated, "OUAT") appointing the opposite party No.5 (Ashirbad Satapathy) as Placement Officer (Annexure-14) and the Order *vide* Letter No.17431— E-I-II-18/2009/UAT, dated 15.12.2020 of Vice-Chancellor, OUAT (Annexure-16) rejecting the representations dated 08.01.2020, 02.06.2020, 28.10.2020, 13.11.2020 and 01.12.2020, whereby the petitioner, Section Officer, Level-II, requested to appoint him in the post of Placement Officer.

Facts:

2. Shorn off unnecessary details, pertinent facts as adumbrated in the writ petition are stated herein below.

2.1. The petitioner having the qualification of Master's Degree in Commerce with Personnel Management as a Specialized subject, was initially appointed on 17.09.1988 as a Senior Research Fellow under the project work of Indian Council of Agricultural Research titled "Study on cost effectiveness of rice crop in Odisha" under the OUAT where he continued as such till the aforesaid project was abolished with effect from 31.03.1991. As per the decision of the authorities all the employees working under the aforesaid project were given regular appointment befitting their qualification under the OUAT, except the petitioner, who was given appointment on 01.04.1991 against the post of Field Investigator in the scale of pay of Rs.3200-4900/- which was not befitting his qualification as Matriculation was the required qualification for the said post. Challenging such action of the authorities, the petitioner had approached this Court by filing a writ petition, being O.J.C. No.9987 of 1998, which got disposed of by Order dated 20.09.1999, with the following direction, as quoted in the writ petition[1]:

"Considering the submissions of the learned counsel for the parties, we dispose of the writ petition with the direction to the opposite parties ***to consider the case of the petitioner for appointment in a suitable post immediately after a vacancy arises.*** *The petitioner is*

[1] Copy of complete order is not enclosed with the writ petition.

now aged 35 years and as such the concerned authority will relax the age and condone his over age."

2.2. The Commissioner-*cum*-Secretary, Government of Odisha by letter dated 09.02.2000 instructed the Vice-Chancellor to comply with the said direction of this Court and report compliance. Accordingly, the petitioner was adjusted and offered the post of Junior Assistant by Order dated 03.04.2000 in the scale of pay of Rs.3,050/- - Rs.4,590/-. The petitioner joined the post of Junior Assistant in the College of Engineering and Technology under the OUAT. Subsequently he got promotion to the post of Senior Assistant and thereafter he was promoted to the post of Section Officer in the Office of the Dean Research, OUAT, Bhubaneswar.

2.3. While continuing as Senior Assistant in the College of Engineering and Technology under the OUAT, which college was transferred to the Biju Patnaik University of Technology, a recommendation was made by the Principal *vide* his Letter No.2129 dated 16.11.2004 pointing out that the college required a post of Liaison Officer, and the case of the petitioner might be considered for the said post. A request was also made to accord permission to upgrade the post, against which this petitioner was continuing, to the post of Liaison Officer carrying the scale of pay of Rs.6,500/- - Rs.10,500/-.

2.4. By Office Order dated 24.08.2007 the petitioner was brought back to OUAT to function as Senior Assistant on promotion pending consideration of the proposal for his appointment as Liaison Officer in the College of Engineering and Technology.

2.5. By virtue of OUAT Notification No.35109— E-II-I-26/2010/UAT, dated 25.06.2010 issued in pursuance of the letter bearing No.14266— PRE (UAT) 36/10/Ag, dated 22.06.2010 of the Government in Agriculture Department a vacant post of Farm Superintendent in the rank of Assistant Professor under Regional Research & Technology Transfer Station (RRTTS), Keonjhar stood abolished; but in lieu thereof post of Placement Officer in Class-II was created in the OUAT, Bhubaneswar on regular basis for monitoring the employment opportunities of the pass out students of the OUAT.

2.6. An Agenda was placed before the Academic Council in the Meeting held on 12.08.2010 and in the said meeting by Resolution No.6504 a regular Placement Officer in Class-II Cadre to be placed under the Dean, Students' Welfare was approved with the following minimum qualification and experience for the post:

"Essential:

(i) Bachelor's Degree in Science/Arts/Commerce/ Computer Science/Computer Engineering,

(ii) Master's Degree with Computer knowledge in Business Administration/Human Resources Development/Personal Management/ Public Relation and Advertisement.

Desirable:

Two years' experience as Placement Officer in any reputed Educational/Research/Industrial Institutions."

2.7. Deviating the minimum qualification approved by the Academic Council in their proceeding dated 12.08.2010, the Board of Management in the Meeting held on 22.09.2010 amended the minimum qualification for filling up the post of Placement Officer, which reads as follows:

"Essential:

Bachelor Degree in any of the discipline with Master Degree in Business Administration/Human Resources Development/Personal Management/Public Relation and Advertisement.

Desirable:

Two years' experience as Placement Officer in any reputed Educational/Research/Industrial Institutions."

2.8. Adhering to the minimum qualification stipulated by the Board of Management, advertisement dated 18.10.2010 was issued to fill up the post of Placement Officer fixing 20.11.2010 as the last date for receipt of application. The petitioner submitted an application to the Registrar,

OUAT to consider his appointment in the said post of Placement Officer as a special case in view of the order/direction dated 20.09.1999 of this Court in O.J.C. No.9987 of 1998. As no action was taken on his representation, he approached this Court in by way of an application, registered as W.P.(C) No.19653 of 2010, with the prayer to consider his case for the post of Placement Officer ignoring the advertisement issued on 18.10.2010 and further prayed to quash the advertisement dated 18.10.2010.

2.9. During pendency of aforesaid writ petition on the representation made by the petitioner and after obtaining the views of the Law Department, the Government in Agriculture Department fixed the following criteria for posting of Banamali Sahoo, Senior Assistant as Placement Officer with a request to seek permission of this Court to amend the said advertisement *vide* letter No. No. 10216— PRE-UAT-57/2014, dated 20.06.2014:

"Master degree from a recognized university in any discipline with atleast 55% marks or equivalent with Master Degree in Business Administration/Human Resource Development/Personal Management.

Desirable:

Two years experience as Placement Officer in any reputed educational/ research/industrial institutions."

2.10. While the matter stood thus, this Court dismissed the writ petition, bearing W.P.(C) No.19653 of 2010, filed by the petitioner by Order dated 01.09.2015 with the following observation:

> *"Considering the contention raised by the learned counsel for the parties and after going through the records, it appears that* ***the advertisement was issued on 18.10.2010 in Annexure-6 by fixing essential qualification for the post of Placement Officer and the petitioner having no requisite qualification in terms of the advertisement issued, subsequent change of any qualification cannot be taken into consideration because the selection process has to be held in terms of the advertisement issued in Annexure-6****. In that view of the matter, this Court is not inclined to entertain this application, accordingly, the same is dismissed."*

2.11. Aggrieved thereby, the petitioner filed intra-Court appeal, being W.A. No.630 of 2015, which got dismissed by the Division Bench on 18.12.2015.

2.12. Still aggrieved, the petitioner had approached the Hon'ble Supreme Court of India in S.L.P.(C) No.12760 of 2016, which also got dismissed *vide* Order dated 13.05.2016 with the following observation:

> *"We are not inclined to entertain this special leave petition which is dismissed.*
>
> *However, we permit the petitioner to approach the High Court by way of a review, insofar as it pertains to the*

observation of the High Court in Paragraph 2 of the impugned order.

Liberty is granted to the petitioner to work out his remedy after the orders passed in the review."

2.13. Availing the liberty granted to the petitioner by the Hon'ble Supreme Court of India in the Order dated 13.05.2016, review petition, bearing RVWPET No. 211 of 2016, was filed before this Court, which stood disposed of *vide* Order dated 19.12.2019 with the following observation:

"This petition has been filed by the petitioner seeking review of the Order dated 18.12.2015 passed in W.A. No. 630 of 2015.

Heard learned counsel for the parties.

This petition Taking into consideration the submission of learned counsel for the petitioner and the averments made in this review petition, paragraph 2 of the Order dated 18.12.2015 passed in W.A. No.630 of 2015 is deleted.

The RVWPET is accordingly disposed of."

2.14. Despite the instruction of the Government in Agriculture Department fixing the requisite qualification for the post of Placement Officer and to revise the qualification prescribed in advertisement dated 18.10.2010 in their letter dated 20.06.2014, the authorities of the OUAT proceeded with the selection process on the basis of the same eligibility criteria prescribed in the advertisement

dated 18.10.2010 and appointed one Ashirbad Satapathy (Opposite Party No.5) in the post of Placement Officer under OUAT in the scale of pay of Rs.15,600/-- Rs.39,100/- plus AGP Rs.6,000/ with usual DA and other allowances as per Office Order No.29537— E-II-II-18/2015/UAT, dated 26.12.2015.

2.15. After disposal of the review petition the petitioner made a representation dated 08.01.2020 with a request for his posting as Placement Officer, a non-teaching post in Class-II Cadre, at the OUAT with immediate effect in the scale of pay Rs.9,300/- - Rs.34,800/- with grade pay Rs.4,600/- as directed by the Agriculture Department. Said representation of the petitioner stands rejected by Order No.17431-E-I-I-18/2009/UAT, dated 15.12.2020 of the Vice-Chancellor, OUAT with the following reasoning:

"It is mentioned here that, ***there is only one post of Placement Officer*** *under OUAT for which selection process has already been completed with due procedure and the selected candidate appointed and continued against the above said post since 26.12.2015.*

In case of allowing scale of pay, it is to mention here that the ***post of Placement Officer was created by Government in class-II rank against abolition of vacant post of Farm Superintendent in the rank of Assistant Professor under RRTTS, Keonjhar vide fetter No. 14266/Ag, dated 22.06.2010****. Subsequently this office has notified the same vide Office Order No.*

35109 dated 25.06.2010. ***Academic Council as well as Board of Management approved the qualification.*** *No where pay scale has been mentioned, only the post has been described as Class-II cadre. It is found that, after receipt of 'the allegation from Sri Banamali Sahoo, the Government Letter No.10216, dated 20.06.2014 clarifying the pay scale of Placement Officer was collected from Government. Meanwhile Shri Ashirbad Satapathy, Placement Officer filed a case before the Hon'ble High Court vide WP(C) No.17152 of 2016 against the Order issued by OUAT vide No.19309, dated 16.09.2016 in which the designation of Placement Officer was changed to Skill Development Officer. As an interim order Hon'ble Court passed order as follows:*

'Continuance of the petitioner shall be without prejudice to his claim as made in this writ petition.'

The matter has already been intimated to Government, DAFE but no reply received yet. Soon after receipt of reply this Office will take appropriate necessary action as per the instructions of Government.

After going through the representation and checking it with the available records, it is now found that the claim of the petitioner Sri Banamali Sahoo to be appointed as Placement Officer is not genuine and deserves no merit.

So the claim made by the petitioner Sri Banamali Sahoo, Section Officer, Level-II is rejected and the representations made on dated 08.01.2020, dated 02.06.2020, dated 28.10.2020, dated 13.11.2020 and dated 01.12.2020 are hereby disposed of."

2.16. Being dissatisfied with such rejection of representations, this petition has been filed with the main grievance, as candidly stated at paragraph 14 of the writ petition:

> *"That the main grievance of the petitioner is that the qualification prescribed by the Government in the Letter dated 20.06.2014 has not been followed for recruitment to the post of Placement Officer. When the post of Placement Officer is a Class-II and a non-teaching post carrying the scale of pay PB-2, Rs.9,300-34,800/- with GP of Rs.4,600/- in absence of any further approval of the State Government as well as Board, there was no reason for the OUAT authorities to mention the scale of pay Rs.15,600-39,100/- plus AGP Rs.6,000/- admissible to the post of Class-II in teaching cadre. Before the selection process had commenced the letter of the Government dated 20.06.2014 prescribing the scale of pay and grade of Placement Officer was very much available with the OUAT. But they did not issue any corrigendum to the advertisement dated 18.06.2010. There is no submission in the order of rejection that the petitioner has no requisite qualification for appointment to the post of Placement Officer. Since Sri Satapathy has been selected and appointed on the basis of qualification not prescribed by the Government, his appointment is liable to be quashed."*

Counter affidavit of the opposite party Nos.2 and 4 (OUAT):

3. The petitioner was initially appointed as Research Fellow on *ad hoc* basis in terms of the Indian Council of Agricultural Research Scheme and joined as such in pursuance of Office Order No.31984, dated 16.09.1988

issued by OUAT on consolidated pay of Rs.900/- per month. The Research Fellow was re-designated as Senior Research Fellow *vide* Office Order No.12, dated 01.01.1991 with revised consolidated pay of Rs.1,750/- with effect from 17.09.1990. The Research Fellow/Senior Research Fellow under the Indian Council of Agricultural Research Scheme are contractual positions. On closure of the above Indian Council of Agricultural Research Scheme with effect from 31.03.1991, the petitioner was offered appointment as Field Investigator on *ad hoc* basis with scale of pay Rs.975/- - Rs.1,600/- with DA and OA with effect from 01.04.1991 *vide* Office Order No.5745, dated 05.04.1991. But the petitioner did not accept the appointment offered by the University. Nonetheless, the petitioner filed writ petition, bearing O.J.C. No. 9987 of 1998 which got disposed of on 20.09.1999 with the direction *"to the opposite parties to consider the case of the petitioner for appointment in a suitable post immediately after a vacancy arises and concerned authority will relax the age and condone his overage"*.

3.1. As per direction of this Court, instruction of Agriculture Department *vide* Letter No.29764/Ag., dated 22.10.1999 and decision of Board of Management Resolution No.3120, dated 25.03.2000, the petitioner was appointed as Junior Assistant in the Department of

Instrumentation and Electronics, College of Engineering and Technology as the said college was a constituent College under the OUAT in scale of pay Rs.3050-4,590/- with DA and other allowances *vide* Office Order No. 4609/UAT, dated 03.04.2000. The petitioner filed W.P.(C) No.19653 of 2010 before this Court with a prayer for direction to the opposite parties to consider his case for the post of Placement Officer ignoring the advertisement dated 18.10.2010 and to quash of advertisement dated 18.10.2010 for the post of Placement Officer. Said W.P.(C) No.19653 of 2010 was dismissed *vide* Order dated 01.09.2015 and the challenge made to said order in appeal, bearing W.A. No.630 of 2015, also got dismissed by Order dated 18.12.2015. However after the Hon'ble Supreme Court of India *vide* Order dated 13.05.2016 declined to entertain S.L.P.(C) No.12760 of 2016, challenging the Order in writ appeal, the petitioner having preferred petition for review, being RVWPET No.211 of 2016, this Court *vide* Order dated 19.12.2019 deleted paragraph 2 of Order dated 18.12.2015 passed in W.A. No.630 of 2015. The petitioner submitted the representation to implement the Order of this Court. The representation of the petitioner got disposed of *vide* University Order No. 17431— E-I-II-18/2019/UAT, dated 15.12.2020 (Annexure-16 of the writ petition) which is subject-matter of challenge in the writ petition.

3.2. After closure of the Indian Council of Agricultural Research Scheme since the petitioner did not join in the post of Field Investigator, as instructed *vide* Letter No.347 dated 30.04.1991, but filed writ petition wherein Order dated 20.09.1999 was passed disposing of O.J.C. No.9987 of 1998 with a direction to consider the case of the petitioner for appointment in a suitable post immediately after vacancies that might arise in future and the petitioner was then aged about 35 years for which the concerned authority would relax the age and condone his overage. After adhering to formalities, the petitioner was offered appointment as Junior Assistant, which being accepted, the petitioner joined in the said post. The Office Order No.4609— E-III-I-30/2000/UAT, dated 03.04.2000 runs as follows:

"In pursuance of the Order No.15, dated 20.09.1999 of the Hon'ble High Court vide O.J.C. No.9987 of 1998 and decision of the Board of Management in its Resolution No.3120, dated 25.03.2000, Sri Banamali Sahoo is appointed temporarily as Junior Assistant in the Department of Instrumentation and Electronics, College of Engineering and Technology, Bhubaneswar in the scale of pay of Rs.3,50-75-3950-80-4,590/- with usual DA and other allowances as may be sanctioned by the University from time to time.

The appointment is purely temporary and terminable at any time without notice and assigned any reason therefor.

The overage of Sri Sahoo is hereby condoned."

3.3. The petitioner was thereafter promoted to the post of Senior Assistant and subsequently as Section Officer. The petitioner was continuing as Section Officer, Level-II on the date of filing of the writ petition, but now he is retired on attaining age of superannuation.

3.4. The employees who were in regular service with pay and pay scale, on the date of closure of the Indian Council of Agricultural Research Project/Scheme, the employees were adjusted against the same Cadre/Post held by them irrespective of their qualifications. Nevertheless, the petitioner being appointed on *ad hoc* basis with consolidated pay under the Scheme, on its closure he was offered a post of Field Investigation with scale of pay Rs.925/- - Rs.1,660/- with DA and other allowances which he refused to accept.

3.5. The Academic Council is empowered to prescribe the qualification for the post under teaching/research/ extension education under this University as per prescribed provisions made under the Odisha University of Agriculture and Technology OUAT Act, 1965 and the Odisha University of Agriculture and Technology Statutes, *vide* Agriculture Department Notification No.37520/Ag, dated 05.11.1966. The Academic Council by Resolution No.6504, dated 12.08.2010 (Annexure-4) approved the qualification for the post of Placement

Officer (Class-II). Subsequently the Board of Management approved the requisite qualification for appointment in the post of Placement Officer *vide* Resolution No. 3633 dated 22.09.2010 (Annexure-5). The Master Degree possessed the petitioner is not equivalent to the qualification prescribed and approved by the Board of Management for the post of Placement Officer. He also did not have experience as Placement Officer which was the desirable qualification for selection. The qualification approved by the Board of Management was exactly that which was prescribed by the Academic Council. With the approval of Board of Management, the advertisement specifying the qualification was notified.

3.6. The requisite qualification for the post of Placement Officer was approved by the Board of Management in Resolution No.3633, dated 22.09.2010. Accordingly, the University advertised the post of Placement Officer with approved qualification *vide* Advertisement No.53898, dated 18.10.2010 (Annexure-6). In the meantime, an interim order was passed by this Court *vide* Order No.2, dated 19.11.2010 in Misc. Case No.18303 of 2010 (arising out of W.P.(C) No.19653 of 2010), which reads as follows:

"Let the interview process to continue in terms of Annexure-6 but no final decision shall be taken for the

post of Placement Officer without leave of the Court, till the next date."

After finalization of W.P.(C) No.19653 of 2010, *vide* Order dated 01.09.2015 dismissing the petition, the selection process was completed. On recommendation of the Standing Selection Committee, Sri Ashirbad Satapathy was appointed as Placement Officer under OUAT in the scale of pay Rs.15,600/- - Rs.39,100/-with AGP Rs. 6,000/- *vide* OUAT Office Order No.29537, dated 26.12.2015. The Selection Committee reported that the petitioner had no requisite qualification attune with the qualification specified in the advertisement dated 18.10.2010. Hence the petitioner was not found eligible for the post.

3.7. The Placement Officer in Class-II under the OUAT was created by surrendering one equal cadre post, *i.e.*, Farm Superintendent in the rank of Assistant Professor from RRTTS, Keonjhar functioning under the OUAT for monitoring the employment opportunity of the students both at Government and Non-Government Level. The post of Placement Officer in Class-II was created with the approval of the Agriculture Department, Government of Odisha *vide* Letter No. 14266/Ag., dated 22.06.2010. Since the post was created in lieu of abolition of the post of Farm Superintendent in the scale of pay of Rs.15,600/- - Rs.39,100/- with AGP Rs.6,000/-, the

advertisement was made for the post of Placement Officer accordingly. Though initially the Academic Council approved the requisite qualification for appointment to the said post, the Board of Management is the competent authority to approve the qualification for the post.

Counter affidavit of the opposite party No.5:

4. As a preliminary issue, maintainability of the writ petition has been raised by the opposite party No.5.

4.1. The petitioner accepted the post of Junior Assistant upon relaxation of age as directed by this Court in the first round of litigation. During pendency of second round of litigation, advertisement to fill up the post of Placement Officer was floated specifying eligibility criteria. After dismissal of the writ petition and writ appeal of the petitioner, the appointment to the said post was finalized and the opposite party No.5 joined in the post and continuing with the job.

4.2. The post of Placement Officer, being created in the year 2010, is not a promotional post of Section Officer. The petitioner having joined in the post of Junior Assistant and got promotion to the post of Senior Assistant and subsequently to the post of Section Officer. Having reaped the benefit of promotion in the hierarchy of ministerial post without any demur, the petitioner has

been taking a calculative chance by agitating the matter with different forms at different times. The advertisement for filling up of the post of Placement Officer was published on 18.10.2010 with the criteria being specified in the lines of Academic Council Resolution of OUAT. Having not questioned the decision of the Academic Council, the writ petition is liable to be dismissed.

4.3. Dismissal of the writ petition and the writ appeal by this Court and the special leave petition by the Hon'ble Supreme Court of India, the Order dated 01.09.2015 passed in W.P.(C) No.19653 of 2010 by learned Single Judge attained finality by virtue of dismissal of W.A. No.630 of 2015, *vide* Order dated 18.12.2015 as modified by virtue of Order dated 19.12.2019 in RVWPET No.211 of 2016. Challenge laid to prescribed qualification for the post of Placement Officer in the advertisement dated 18.10.2010 in the writ petition, W.P.(C) No.19653 of 2010 being dismissed, the petitioner cannot question the appointment of the opposite party No.5, as he is not prejudiced.

4.4. Successive writ petition on the issue already decided ought not to be proceeded with as the same would be hit by principles of *res judicata.* See, *Kangra Central Cooperative Bank Limited Vrs. The Kangra Central Cooperative Bank Pensioner Welfare Association (Regd.)*

& Ors., (2025) 12 SCR 766; Satheesh V.K. Vrs. The Federal Bank Ltd., (2025) 9 SCR 1255; The Gauhati High Court through The Registrar General Vrs. Goto Ete & others, (2018) 10 SCR 261; Bikash Mahalik Vrs. State of Odisha, 2022 (I) ILR-CUT 108.

Hearing:

5. Heard Sri Satya Narayan Mohapatra, learned Advocate for the petitioner; Sri Soumik Spandan Tripathy, learned Advocate for the opposite party Nos.2 and 4; and Sri Biswabihari Mohanty, learned Advocate for the opposite party No.5.

5.1. After conclusion of the hearing, the matter is reserved for preparation and delivery of Judgment.

Consideration of rival contentions:

6. Sri Satya Narayan Mohapatra, learned Advocate reiterating the facts sought to question whether post of Placement Officer, Class-II, OUAT, being a non-teaching post within the meaning of Statute 3(3)(ix), Part-II (Recruitment, Election and General Provisions), Chapter-II (Officers of the University, their Appointment, Powers and Duties) of the Odisha University of Agriculture and Technology Statutes, 1966 read with Section 2(xv) of the Odisha University of Agriculture and Technology

Employees' (Conditions of Service) Statutes, 1989, could be assigned with teaching scale of pay.

6.1. Such a question apparently does not call for adjudication inasmuch as no prayer is made to declare said action *ultra vires* the Statutes. Regard being had to the prayers made in the writ petition it is manifest that the petitioner is peeved against the appointment of the opposite party No.5 in the post of Placement Officer.

6.2. Section 2(10) of the Odisha University of Agriculture and Technology Act, 1965 defines the term "teacher" to mean "a person appointed or recognised by the University for the purpose of imparting instruction or conducting and guiding research and extension educational programmes and includes a person who may be declared by the statutes to be a teacher." In exercise of powers conferred by Section 33 read with Section 34(1) of the Odisha University of Agriculture and Technology Act, 1965, the Odisha University of Agriculture and Technology Statutes, 1966 came into force on 05.11.1966 by virtue of Section 1(2), which clearly specified that "they shall come into force at once". The caption heading of said Statutes mentioned that "the State Government do hereby make the following first statutes after the same having been provisionally published in the Odisha Gazette Extraordinary No.352, dated 04.04.1966. Stemming on Statute 3(3)(ix) of the Odisha University of

Agriculture and Technology Statutes, 1966, Sri Satya Narayan Mohapatra, learned Advocate submitted that the qualification of ministerial staff and other employees should be the same for similar posts under the Government of Odisha bearing the same or equivalent scale of pay. In the counter affidavit, it is unambiguously asserted by the opposite party Nos.2 and 4 that "the post of Placement Officer in Class-II was created on regular basis with the approval of Agriculture Department, Government of Odisha *vide* Letter No.14266/Ag, dated 22.06.2010 in which the pay scale was not mentioned. Since the post was created by abolishing the post of Farm Superintendent in the scale of pay Rs.15,600/- - Rs.39,100 with AGP Rs.6,000/-, the advertisement was made for the post of Placement Officer accordingly". Refuting the contention of the petitioner it is stated by these opposite parties that though the Academic Council initially approved qualification for the said post, the Board of Management is the competent authority in view of Statute 3(4) of the Odisha University of Agriculture and Technology Statutes, 1966, which unequivocally spells out that "the scale of pay of officers, teachers and employees" would be as specified thereunder, but "subject to changes from time to time to be made by the Board by Orders with prior approval of the Government". The question posed by the petitioner shall not detain this Court any further.

Having not questioned the exercise of powers to be *ultra vires* the Statutes, the point raised by the petitioner does not call for consideration and is unwarranted. However, in view of the clear position as enumerated by the opposite party Nos.2 and 4, it requires no specific answer.

6.3. Fact remains that on the basis of eligibility and requisite qualification being specified in the advertisement dated 18.10.2010 for appointment of Placement Officer, single post created on account of abolition of Farm Superintendent in the rank of Assistant Professor in pursuance of Agriculture Department Letter No.14266— PRE(UAT)-36/10/Ag, dated 22.06.2010 *vide* OUAT Letter No.35109— E-II-I-26/ 2010/UAT, dated 25.06.2010, and said qualification so prescribed in the advertisement being not interfered with in the Order dated 01.09.2015 in W.P.(C) No.19653 of 2010, filed at the behest of the petitioner, this Court is precluded to re-examine such issue. In the said decision in the earlier round of litigation this Court held that the petitioner had no eligibility criteria/requisite qualification for appointment to the post of Placement Officer in Class-II. The manner of prayer made in the instant writ petition is allowed, it would lead to scope to examine the satisfaction of eligibility conditions of the opposite party No.5, who was found successful to get appointment in

the process of recruitment process in response to advertisement dated 18.10.2010 and in fact he has been appointed in the post of Placement Officer after finalisation of the matter in earlier round of litigation in the year 2015. The reason for the delay in publication of result is on account of interim order being passed by this Court in W.P.(C) No.19653 of 2010. After dismissal of said writ petition and writ appeal against order in said writ petition the result could be published and appointment was given to the opposite party No.5.

6.4. As the record transpires that the observation made in Order dated 01.09.2015 in W.P.(C) No.19653 of 2010 declining to interfere with the requisite qualification enshrined for the post of Placement Officer in the advertisement dated 18.10.2010 and the petitioner had no requisite qualification for the said post, there cannot be any doubt that such finding returned by the learned Single Judge has attained finality by virtue of dismissal of the writ appeal *vide* Order dated 18.12.2015 read with Order dated 19.12.2019 passed in review petition, RVWPET No.211 of 2016 and Special Leave Petition (Civil) No.12760 of 2016 by the Hon'ble Supreme Court of India *vide* Order dated 13.05.2016. In *Experion Developers Private Limited Vrs. Himanshu Dewan and Sonali Dewan and Others, (2023) 12 SCR 1118* the Hon'ble Supreme Court of India enunciated as follows:

"No doubt, in Pawan Gupta's case (supra)[2], this Court had not exercised the power or jurisdiction conferred by Article 136 of the Constitution of India, but had exercised its appellate power, which would, in terms of the ratio in Kunhayammed (supra)[3], becomes the final order which is executable. ***Thus, the dismissal of the appeal by this Court in the case of Pawan Gupta (supra), had put a finality and an end to the litigation in the said case. To this extent, therefore, the application of the general principle of res judicata would bar the party from raising the plea once again. The order passed by this Court, on the application of the principle of judicial discipline, bars and prevents any tribunal or parties from canvassing or taking a view which would have the effect of re-examination of the issues and points determined in the case of Pawan Gupta (supra) inter-se the parties to the decision.*** *However, dismissal of the appeal would not operate as res judicata in the case of the respondents against the appellant as they were not parties to the said case, and* ***the proceedings initiated by Pawan Gupta were fact specific and not in a representative capacity****."*

6.5. In view of legal position with respect to challenge made to appointment of another employee as enunciated in *Ayaaubkhan Noorkhan Pathan Vrs. State of Maharashtra, AIR 2013 SC 58*, the prayer to quash the selection of the opposite party No.5 and appointment Order dated 26.12.2015 is incomprehensible. The

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2 *Experion Developers Pvt Ltd Vrs. Pawan Gupta, Decision dated 12.01.2021* in *Civil Appeal Nos. 3703-3704 of 2020.*

3 *Kunhayammed and Others Vrs. State of Kerala and Another, (2000) 6 SCC 359 = (2000) 1 Suppl. SCR 538*

petitioner has joined in the post of Junior Assistant after the OUAT condoned the overage pursuant to order of this Court and thereafter got two promotions and on attaining age of superannuation got retired while working in the post of Section Officer. This Court finds force in the submission of Sri Biswabihari Mohanty, learned Advocate that the opposite party No.5 was selected and he did join in the post of Placement Officer after the order of this Court dismissing the writ petition having attained finality.

7. Harping at the Order dated 20.09.1999 passed in O.J.C. No.9987 of 1998, Sri Satya Narayan Mohapatra, learned Advocate sought to canvas that the observation of this Court has not been carried out in its letter and spirit as the authority should have considered the case of the petitioner for appointment in a suitable post immediately after a vacancy arose. In the written note of submissions he asserted that having qualified M.Com. the petitioner could have been adjusted against the post of Lecturer rather than offering him in the post of Junior Assistant on 03.04.2000. Notwithstanding such plea, this Court on close scrutiny of material placed on record finds that though the petitioner was offered to join in the post of Field Investigator in Consultancy Organisation after closure of the Cost Effectiveness Scheme of Indian Council of Agricultural Research *vide* Letter No.347/CO,

dated 30.04.1991 (Annexure-F/2), which he did not honour. However, the petitioner accepted the position and joined as Junior Assistant in pursuance of Order dated 20.09.1999 passed in OJC No.9987 of 1998 and decision of Board of Management in its Resolution dated 25.03.2000. On subsequent occasions he joined not only in the promotional post of Senior Assistant, but also in the post of Section Officer, wherefrom he got retired on attaining age of superannuation.

7.1. Though the petitioner accepted the non-teaching post, he after around ten years of service, on creation of a post "Placement Officer" in Class-II category in the OUAT, Bhubaneswar in lieu of Farm Superintendent *vide* Notification dated 25.06.2010 issued by the OUAT raked up the issue and questioned the advertisement dated 18.10.2010 issued for filling up of the post of Placement Officer, which is single post in the OUAT, by way of filing writ petition bearing W.P.(C) No.19653 of 2010. This Court took note of such fact in Order dated 01.09.2015, which is to the following effect:

"The petitioner files this application seeking for a direction to opposite parties to consider his case for the post of Placement Officer ignoring the advertisement issued as on 18.10.2010 and further seeking to quash the same."

Observing thus, this Court dismissed the said writ petition by holding that the advertisement was issued on

18.10.2010 by fixing essential qualification for the post of Placement Officer and the petitioner having no requisite qualification in terms of the advertisement issued, subsequent change of any qualification cannot be taken into consideration because the selection process has to be held in terms of the advertisement issued. In that view of the matter, this Court declined to entertain the writ application. It is apt to mention that such observation of this Court attained finality in view of dismissal of writ appeal (W.A. No.630 of 2015, by Order dated 18.12.2015 of the Division Bench) and subsequently special leave petition (SLP(C) No.12760 of 2016 by Order dated 13.05.2016 of the Hon'ble Supreme Court of India). However, after dismissal of special leave petition, the petitioner filed review petition, being RVWPET No.211 of 2016, while disposing of said review petition, a Division Bench of this Court modified the order in writ appeal. After modification the original order passed in writ appeal stands thus:

"02. 18.12.2015

1. *The appeal is preferred from the order dated 01.09.2015 of learned Single Judge in W.P.(C) No. 19653 of 2010 with an application for condoning the delay of 28 days in filing of the appeal. Even as learned counsel for the appellant is not present, the appellant has appeared as party in person and insisted on arguing his own case.* ***As recorded in the impugned order, the appellant approached***

the Court for a direction to consider his case for the post of Placement Officer ignoring the advertisement issued therefor on 18.10.2010. His prayer was based on the grievances that the said advertisement fixed the criteria for the post of Placement Officer which the appellant could not fulfill. *He appears to have approached several authorities to change the criteria fixed by the opponent-Orissa University of Agriculture and Technology (OUAT).*

2. [4]*[***]*

3. Since there is no ground in the appeal for interference, no purpose would be served by issuing notice in the application for condonation of delay.

4. Accordingly, the appeal as well as the application made therein are dismissed in limine."

7.2. In course of hearing Sri Satya Narayan Mohapatra, learned Counsel for the petitioner placed heavy insistence on such deletion. This Court finds weak force in such contention inasmuch as the ultimate result of the petition for review stood firm by affirming dismissal of writ appeal. What is culled out from the above orders

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[4] Prior to deletion by virtue of Order dated 19.12.2019 passed in RVWPET No.211 of 2018, Paragraph 2 of the Order dated 18.12.2015 passed in W.A. No.630 of 2015 stood thus:
"No ground is made out to hold that the criteria and requisite qualification fixed by the University were in any way illegal or discriminatory. On the other hand, the appellant has already been absorbed and promoted to the post where he is getting the same pay scale as that of the Placement Officer (Class-II). Therefore, his insistence upon being posted as Placement Officer without the requisite qualification has no basis in law or in fact. Under the circumstances, learned Single Judge was perfectly justified in declining the prayer of the appellant."

of this Court is that the observations of the learned Single Bench in the Order dated 01.09.2015 passed in W.P.(C) No.19653 of 2010 remained untouched, wherefrom it can be discerned that this Court even after passing order in the review petition the fact that the advertisement dated 18.10.2010 prescribing qualification for the post of Placement Officer is not disturbed/modified.

7.3. It may not be inept to have regard to the enunciation of the Hon'ble Supreme Court of India, as reflected in the Judgment dated 10.09.2025 passed in the batch of matters, being *State of Odisha and Others Vrs. Supriya Kar and Others, W.A. No.138 of 2025 &c.* Division Bench of this Court observed in its judgment as follows:

> *"9. There are plethora of judgments rendered by the Apex Court, where such issue was raised, whether the authorities should follow the Rules which was applicable on the date when the process for recruitment was initiated or shall be bound by the subsequent Rules as the said recruitment process could not be completed during the lifetime of the repealed Rules. It was consistently followed that once the game is played, the rule of the game shall not be changed in the midway. In other words, once the recruitment process commenced, the Rules applicable and/or prevalent at the relevant point of time shall be followed and/or be a guiding factor till the said recruitment process is complete. It would be immaterial if such Rules is either repealed and/or*

substituted by subsequent Rules as the authorities are bound to follow the extant Rules as on the date of the publication of the advertisement.

9.1. A Three-Judge Bench of the Apex Court in the case of Tej Prakash Pathak and others Vrs. Rajasthan High Court and others, (2013) 4 SCC 540, noticed the divergent view having expressed in the judgment rendered by the Apex Court and referred the matter to the Hon'ble Chief Justice of India for constituting a larger Bench to answer the reference, whether the State or its instrumentality can tinker with the rules of the game to apply in the procedure for selection, more particularly when the change sought to impose is more rigorous scrutiny for selection. Pursuant to such reference, the Five-Judge Bench was constituted and by a judgment in the case Tej Prakash Pathak and others Vrs. Rajasthan High Court and others, (2024) 12 SCR 28 answered in the following:

'30. What is clear from above is that the object of any process of selection for entry into a public service is to ensure that a person most suitable for the post is selected. What is suitable for one post may not be for the other. Thus, a degree of discretion is necessary to be left to the employer to devise its method/procedure to select a candidate most suitable for the post albeit subject to the overarching principles enshrined in Articles 14 and 16 of the Constitution as also the Rules/Statute governing service and reservation. Thus, in our view, the appointing authority/recruiting authority/competent authority, in absence of Rules to the contrary, can devise a procedure

for selection of a candidate suitable to the post and while doing so it may also set benchmarks for different stages of the recruitment process including written examination and interview. However, if any such benchmark is set, the same should be stipulated before the commencement of the recruitment process. But if the extant Rules or the advertisement inviting applications empower the competent authority to set benchmarks at different stages of the recruitment process, then such benchmarks may be set any time before that stage is reached so that neither the candidate nor the evaluator/examiner/interviewer is taken by surprise. The decision in K. Manjusree Vrs. State of Andhra Pradesh, (2008) 2 SCR 1025 does not proscribe setting of benchmarks for various stages of the recruitment process but mandates that it should not be set after the stage is over, in other words after the game has already been played. This view is in consonance with the rule against arbitrariness enshrined in Article 14 of the Constitution and meets the legitimate expectation of the candidates as also the requirement of transparency in recruitment to public services and thereby obviates mal practices in preparation of select list.'

9.2. The larger Bench while considering the broader issue, whether the procedure prescribed in the extant Rules can be violated, observed in the following:

'37. In Sivanandan C.T. and others Vrs. High Court of Kerala and others, (2023) 11 SCR 674 the

issue before the Constitution Bench was whether for selection minimum marks could be prescribed contrary to the extant rules and the advertisement. Answering in the negative, the Constitution Bench, speaking through one of us (Dr. D.Y. Chandrachud, CJ), held:

'15. The Administrative Committee of the High Court decided to impose a cut off for the viva-voce examination actuated by the bona fide reason of ensuring that candidates with requisite personality assume judicial office. However laudable that approach of the Administrative Committee may have been, such a change would be required to be brought in by a substantive amendment to the rules which came in much later as noticed above. This is not a case where the rules of the scheme of the High Court were silent. Where the statutory rules are silent, they can be supplemented in a manner consistent with the object and spirit of the Rules by an administrative order.

16. In the present case, the statutory rules expressly provided that the select list would be drawn up on the basis of the aggregate marks obtained in the written examination and the viva-voce. This was further elaborated in the scheme of examination which prescribed that there would be no cut off marks for the viva-voce. This position is also reflected in the notification of the High Court dated 30th

September, 2015. In this backdrop we have come to the conclusion that the decision of the High Court suffered from its being ultra vires the 1961 Rules besides being manifestly arbitrary.'

38. *Following Sivanandan CT (supra), a three-Judge Bench of this Court in Salam Samarjeet Singh Vrs. The High Court of Manipur at Imphal & Another, (2024) 8 SCR 885 held:*

> *'31. … Prescribing minimum marks for viva-voce segment may be justified for the holistic assessment of a candidate, but in the present case such a requirement was introduced only after commencement of the recruitment process and in violation of the statutory rules. The decision of the Full Court to depart from the expected exercise of preparing the merit list as per the unamended rules is clearly violative of the substantive legitimate expectation of the petitioner. It also fails the tests of fairness, consistency and predictability and hence is violative of Article 14 of the Constitution of India.'*

9.3. *It was ultimately held that once the recruitment process commences from the issuance of the advertisement calling for applications, it ends with filling up of all the vacancies. It was further observed that the eligibility criteria so notified at the commencement of the recruitment process cannot be changed in the midway unless the extant Rules so permit with further stipulation that even if the extant Rules permit any change to be brought, such change*

must withstand the test of Article 14 of the Constitution of India and shall satisfy the test of non-arbitrariness. Ultimately, it is held that the extant Rules having a statutory force are binding on the Recruiting Body in terms of procedure and eligibility.

9.4. The law enunciated in the larger Bench decision of the Apex Court leaves no ambiguity that once the recruitment process is initiated following the procedures and the other criteria required in the statutory Rules in vogue, even if the said Rules is superseded and/or substituted and/or repealed, it does not affect the process which has to be completed following the provisions contained therein. The expression "extant Rules" as used in the judgment rendered by the larger Bench is in relation to Rules, which was prevalent at the time of initiation of the recruitment process and, therefore, any change beyond the powers having conferred in the said extant Rules in the midst of the recruitment process, is impermissible. It further stands on a strong logic of fairness and transparency. The uniformity and/or certainty in the selection process is the hallmark of Article 14 of the Constitution of India, and eradicate any vices of arbitrariness, nepotism and/or favoritism. Even if the extant Rules permits any change to be brought in the midway, the exercise of such power must withstand on the parameters of Article 14 of the Constitution and also on the test of reasonableness."

7.4. This Court finds force in the submission of Sri Biswabihari Mohanty, learned Advocate that a single post of Placement Officer in the OUAT being created in

lieu of abolition of Farm Superintendent in the rank of the Assistant Professor in pursuance of Agriculture Department Letter No.14266— PRE(UAT)-36/10/Ag, dated 22.06.2010 *vide* OUAT Letter No.35109— E-II-I-26/ 2010/UAT, dated 25.06.2010, the same could not be reserved and the pay scale as attached to the said post cannot be questioned by the petitioner. Sri Biswabihari Mohanty, learned Advocate representing the opposite party No.5, whose appointment is assailed herein, would draw attention of this Court to advertisement dated 18.10.2010 to contend that only post of Placement Officer was sought to be filled up by way of direct recruitment and the qualification and eligibility conditions for the said post have been prescribed by the competent authority.

7.5. After dismissal of writ appeal of the petitioner, being W.A. No.630 of 2015, by Order dated 18.12.2015 affirming the Order dated 18.10.2010 in W.P.(C) No.19653 of 2010 the opposite party No.5 got appointed and joined in the post of Placement Officer having satisfied the conditions stipulated in the advertisement dated 18.10.2010. It is contended by the learned Advocate appearing for the opposite party No.5 that it is the employer who is competent to fix the eligibility criteria for a post; nonetheless, the petitioner cannot compel the authors of the advertisement to change the

eligibility criteria and qualification envisaged therein to suit his own qualification.

7.6. A reference to *J and K Service Selection Board and Another Vrs. Sudesh Kumar and Others, 2025 SCC OnLine SC 2681* would suffice to countenance the submission of the learned counsel for the opposite party No.5. In said case the Hon'ble Supreme Court of India after taking note of *K. Manjusree (supra)* and *Tej Prakash Pathak (supra).*observed thus:

> *"10. It is not in dispute that weightage points allotted to a B.Sc. Degree in Forestry was 25 points at the stage when the candidates participated in the selection process, and this was altered only after interviews were held, that is, when all the stages of participation by a candidate in the selection process were over. In Manjushree (supra), this Court did not approve of prescribing minimum cut-off marks in the interview for selection after the interviews were over. This issue was considered by a Constitution Bench of this Court in Tej Prakash Pathak (supra) and approved[5]. We acknowledge that recruiting bodies could devise an appropriate procedure for successfully concluding the recruitment process provided the procedure adopted has been transparent, non-discriminatory/non-arbitrary and has a rational nexus to the object sought be achieved. Here, we find that the evaluation procedure was altered after the interviews were over, candidates had completed their participation in*

[5] See: Paragraphs 36, 43 and 53 of *Tej Prakash Pathak's judgment* as reported in *(2025) 2 SCC 1*.

the selection process, and most importantly, it was altered on representation of candidates. Such alteration, in our opinion, cannot be termed transparent and does not have a rational nexus to the object sought to be achieved in as much as the academic qualification required for the post was barely 10+2 with science and stress was more on physical attributes of a candidate including viva voce. Therefore, a change in the selection criteria, after interviews were held, in our view, was rightly not countenanced by the Division Bench of the High Court."

7.7. The learned counsel for the opposite party No.5 has rightly drew attention of this Court to the prayer of the petitioner. Careful reading of the prayer made in the cleverly drafted writ petition reveals that the petitioner seeks a direction of this Court in exercise of power under Article 226 of the Constitution of India *"to accommodate the petitioner in the post of Placement Officer, now re-designated as Skill Development Officer retrospectively with effect from the date the opposite party No.5 was selected and appointed vide Office Order No.29537, dated 26.12.2015"*.

7.8. No iota of evidence could be adduced by the petitioner to have requisite qualification to claim appointment to the post of Placement Officer. The Single Bench of this Court rejected the prayer of the petitioner in the writ petition, being W.P.(C) No.19653 of 2010, *vide* Order dated 01.09.2015 (appeal against which got dismissed by the

Division Bench of this Court and the Special Leave Petition also suffered same fate before the Hon'ble Supreme Court of India) by declining to interfere with the *"essential qualification for the post of Placement Officer"* enshrined in the advertisement dated 18.10.2010 and the petitioner remained unsuccessful in demonstrating to have possessed *"requisite qualification in terms of the advertisement issued"*. The petitioner (a retired employee having chosen to avail and enjoyed the benefit of promotional posts of the Senior Assistant and the Section Officer) at this juncture cannot question the appointment of the opposite party No.5. Having satisfied the conditions stipulated in the advertisement dated 18.10.2010, said opposite party No.5 came out in flying colours and got appointment in the post of Placement Officer (single post in the OUAT created in lieu of post of Farm Superintendent). Sri Satya Narayan Mohapatra, learned Advocate sought to take cue from the Order dated 20.09.1999[6] to strenuously argue that this Court directed *"for appointment in a suitable post immediately after a vacancy arises"*. On the contrary, in paragraph 5 of the writ petition it is admitted by the petitioner that *"he was adjusted and offered the post of Junior Assistant as per the Order dated 03.04.2000 passed by the OUAT*

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6 The petitioner neither furnished full details of the Order dated 20.09.1999 of this Court passed in O.J.C. No.9987 of 1998 nor has he enclosed copy of such Order for perusal of this Court. However, the operative part of said Order is quoted at Paragraph 3 of the writ petition.

in the scale of pay of Rs.3,050/- - Rs.4,590/-" ignoring overage. Without any demur having joined the said post and having accepted the promotions in the posts of the Senior Assistant and the Section Officer in the hierarchy, the petitioner is estopped from claiming for appointment in the post of Placement Officer, which is slated to be filled up by direct recruitment. It is categorical observation of this Court *vide* Order dated 01.09.2015 passed in W.P.(C) No.19653 of 2010 that the petitioner did not possess requisite qualification, which attained finality and binding *inter se* parties.

7.9. Sri Soumik Spandan Tripathy, Advocate representing the OUAT, Sri Debaraj Mohanty, learned Advocate for the Agriculture and Food Production Department of Government of Odisha and Sri Biswabihari Mohanty, learned Advocate for the opposite party No.5 could throw light in the subject matter of granting promotion after retirement of an employee. In this respect reliance is placed on *State of West Bengal Vrs. Dr. Amal Satpathi, 2024 INSC 906*[7]*, disposed of vide Judgment dated 27.11.2024*, wherein it has been observed that:

> *"5. Aggrieved by the denial of the benefits flowing from promotion, respondent No. 1 approached the Tribunal by filing O.A. No. 555 of 2017. ****

[7] Reported at *2024 SCC OnLine SC 3512.*

6. *The appellants challenged this order before the High Court in WPST No. 157 of 2019. The High Court, vide judgment dated 1st February, 2023 dismissed the writ petition, concurring with the Tribunal that* ***retrospective promotion was impermissible but noting that notional financial benefits were justified given that no fault can be attributed to respondent No. 1.*** *Aggrieved, the State has preferred this appeal by special leave.*

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8. *He further submitted that service jurisprudence does not recognize retrospective promotion without a specific enabling provision, therefore, notional promotion cannot be granted retrospectively unless there exists a specific rule or exceptional circumstances.* ***In the present case, Rule 54(1)(a) of the West Bengal Service Rules, precludes retrospective promotion****.*

9. *Learned counsel further submitted that the final approval for the Chief Scientific Officer position was granted on 4th January, 2017,* ***after the respondent's superannuation on 31st December, 2016, thus, the promotion could not be effected during his service tenure*** *and therefore,* ***in the absence of any specific rule permitting retrospective promotion, the effective date of promotion should be the date on which it is granted, not the date of the vacancy****.*

***

12. ***E-converso, learned counsel for respondent No.1 submitted that respondent No.1 had been***

serving as Principal Scientific Officer since 24th March, 2008, and could have been promoted to Chief Scientific Officer as early as in the year 2013, had the Department submitted a timely proposal to fill up the vacancy. *It was submitted that the Department failed to timely provide the confidential reports and other details of respondent No.1 to the PSC by 13th April, 2016, as required under the Rules. This inaction, for reasons best known to the officials concerned, led to a significant delay in the promotion process and thus, respondent No.1 was deprived of this rightful claim to the fruits of promotion from the date of occurrence of vacancy as per his entitlement.*

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15. The primary question that arises for our consideration in the present appeal is whether respondent No.1, who was recommended for the promotion before his retirement but did not receive actual promotion to the higher post due to administrative delays, is entitled to notional financial benefits of the promotional post after his retirement?

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17. The relevant provision i.e., Rule 54(1)(a) of the West Bengal Service Rules, is extracted hereinbelow for the sake of ready reference:

"Pay on Officiating Appointment.— 54(1)(a):

Subject to the provisions of Chapter VII, a Government employee who is appointed to officiate in a post ***shall not draw pay higher than* "his***

substantive pay" in respect of a permanent post, other than a tenure post, unless the officiating appointment involves the assumption of duties and responsibilities of greater importance than those attaching to the post, other than a tenure post, on which he holds a lien, or would hold a lien had it not been suspended*:*

Provided that the Governor may specify posts outside the ordinary line of a service the holders of which may, notwithstanding the provisions of this rule and subject to such conditions as the Governor may prescribe, be given any officiating promotion in the cadre of the service which the authority competent to order promotion may decide, and may thereupon be granted the same pay as they would have received if still in the ordinary line." (emphasis supplied)

18. *Upon a bare perusal of Rule 54(1)(a) of the West Bengal Service Rules, it is clear that promotion cannot be retrospectively granted after retirement, as it requires the actual assumption of duties and responsibilities of the promotional post. In the present case, since respondent No. 1 superannuated before the final approval of his promotion, he could not have formally assume the charge of the promotional post of Chief Scientific Officer. Therefore, although respondent No. 1 was recommended for promotion, Rule 54(1)(a) of the West Bengal Service Rules precludes him from getting the financial benefits of the promotional post without having taken on the responsibilities of the said post, i.e., Chief Scientific Officer.*

19. *It is a well settled principle that promotion becomes effective from the date it is granted, rather than from the date a vacancy arises or the post is created. While the Courts have recognized the right to be considered for promotion as not only a statutory right but also a fundamental right, there is no fundamental right to the promotion itself. ****

20. *In the instant case, it is evident that while respondent No. 1 was recommended for promotion before his retirement, he could not assume the duties of the Chief Scientific Officer.* ***Rule 54(1)(a) of the West Bengal Service Rules, clearly stipulates that an employee must assume the responsibilities of a higher post to draw the corresponding pay, thus, preventing posthumous or retrospective promotions in the absence of an enabling provision****.*

21. *While we recognize respondent No.1's right to be considered for promotion, which is a fundamental right under Articles 14 and 16(1) of the Constitution of India, he does not hold an absolute right to the promotion itself.* ***The legal precedents discussed above establish that promotion only becomes effective upon the assumption of duties on the promotional post and not on the date of occurrence of the vacancy or the date of recommendation.*** *Considering that respondent No.1 superannuated before his promotion was effectuated, he is not entitled to retrospective financial benefits associated to the promotional post of Chief Scientific Officer, as he did not serve in that capacity."*

7.10. It is well-nigh settled that the moment the petitioner gets retired from service, the relationship between the employer and the employee ceases to exist. The expression 'retire' has been defined in Legal *Thesaurus by William C. Burton (Regular Edition Pg 453)* in the context of employment to mean to '*conclude a career*'. It has the following other meanings:

"Abdicate, demit, drop out, give notice, give up office, give up work, leave, quit, relinquish, resign, stand aside, take leave, tender one's resignation, vacate".

7.11. The contents of the writ petition along with averments do not disclose that the petitioner has questioned the single post. *Albeit* being conscious of the fact that the post of Placement Officer, a single post created in the OUAT in lieu of abolition of Farm Superintendent, has to be filled up by way of process of undertaking direct recruitment and that the opposite party No.5 being selected and appointed against said post of Placement Officer in 2015 after dismissal of the writ petition of the petitioner and as on date he has been continuing to work, it is fallacious to make a prayer in this writ petition to *"accommodate the petitioner in the post of Placement Officer retrospectively with effect from the date the opposite party No.5 was selected and appointed vide Office Order No.29537, dated 26.12.2015" "with all consequential service and financial benefit by declaring the appointment and selection of the opposite party No.4*

(OUAT) to be illegal, arbitrary and unconstitutional". Doing so, would be to efface the effectiveness of the Order dated 01.09.2015 passed in W.P.(C) No.19653 of 2010, which stands affirmed even after dismissal of review petition against the order in writ appeal.

8. Valiant attempt is made by Sri Satya Narayan Mohapatra, learned Advocate to assert that had the Letter bearing No.10214— PRE-UAT 57/2014, dated 20.06.2014 issued by the Government of Odisha in Agriculture Department based on the opinion of the Law Department *vide* Letter No.32822/UAT, dated 20.06.2011 specifying qualification for the post of Placement Officer (Class-II) been placed by the OUAT before this Court while deciding the W.P.(C) No.19653 of 2010 on 01.09.2015, the result would have been otherwise. Strong opposition is laid by the opposite parties against such submission of the learned Counsel. If the Order dated 01.09.2015 rendered by this Court in W.P.(C) No.19653 of 2010 was not palatable, the petitioner could have taken such plea therein, nevertheless such stance cannot be taken in the successive writ petition. This Court finds force in the submission of Sri Soumik Spandan Tripathy, learned Advocate for the OUAT that such contention of Sri Satya Narayan Mohapatra, learned Advocate for the petitioner could have been raised or agitated by the petitioner in

the writ petition, bearing W.P.(C) No.19653 of 2010, even after disposal of said case, if he was so advised. Having not done so, on flimsy ground the learned counsel for the petitioner seeks to enforce stale claim.

8.1. What is perceived is that the letter of the Government of Odisha in Agriculture Department simply stated for approaching this Court for varying with the terms of advertisement. This Court in the interim order dated 19.11.2010 in Misc. Case No.18303 of 2010 (arising out of W.P.(C) No.19653 of 2010), directed for continuance of process of interview in terms of advertisement dated 18.10.2010, but restrained to publish the final decision for the post of Placement Officer *"without leave of the Court"*. Since the said W.P.(C) No.19653 of 2010 has been disposed of on 01.09.2015, there was no occasion or necessity for the opposite parties to seek modification of interim order. This Court finds support from the documents enclosed with the writ petition that the appointment of the opposite party No.5 was made in a transparent manner.

8.2. Therefore, there is no scope left for this Court to hold that the essential qualification specified in the advertisement dated 18.10.2010 had correctly been adhered to. For clear understanding with respect to the prerogative of the appointing authority to prescribe qualification for a particular post, reference to

Banarsidas Vrs. State of U.P., (1956) 1 SCC 572 may be relevant, wherein it has been observed that:

> *"4. The petitioners' grievance is that they have been prevented from re-entering the government service upon the reorganisation of the cadre under the new name. But it is clear that the Government are within their rights to lay down certain qualifications for the new recruits. They are entitled to exclude those persons who have betrayed a lack of proper sense of discipline. It cannot therefore be said that the Government have denied an equal opportunity to those who are equal in all respects. It appears that the Government have not permanently filled all the vacancies in the new cadre. Those of the petitioners who are prepared to accept the discipline of government service may approach the proper authorities through the proper channel and we have no doubt that their cases will receive sympathetic consideration at the hands of the Government, consistently with the demands of the exigencies of public service.*
>
> *5. Our attention was particularly invited to the new scheme of recruitment as laid down in the Government Orders of the 5th March which contained the directions that all Patwaris who had not resigned and who had not reached the age of superannuation would be absorbed, that the Patwaris who had resigned but had withdrawn their resignations by 04.03.1953 would also be absorbed and that of those who had resigned and whose resignations had been accepted, only those will be absorbed who had an excellent record of work and who had not taken an active part in the agitation.*

Besides those, fresh recruits also were to be taken in. With reference to those directions it was contended that the petitioners who came within the category excluded from reappointment had really been denied equal opportunity of appointment as Lekhpals and that thus Article 16 of the Constitution was infringed.

6. ***In our opinion, it is open to the appointing authority to lay down the requisite qualifications for recruitment to Government service and it is open to that authority to lay down such prerequisite conditions of appointment as would be conducive to the maintenance of proper discipline amongst Government servants. If persons already under Government employment on part-time basis had shown themselves not to be amenable to proper discipline in Government offices, it was open to Government not to appoint such persons to the permanent cadre of Lekhpals because such persons could not be said to be as efficient as those who had excellent records of service and had shown greater sense of responsibility to their employers.*** *Article 16 of the Constitution is an instance of the application of the general rule of equality laid down in Article 14, with special reference to the opportunity for appointment and employment under the Government. Like all other employers, Government are also entitled to pick and choose from amongst a large number of candidates offering themselves for employment under the Government.*

7. *As already indicated, the old Patwaris held part-time jobs under the Government. The new cadre of*

Lekhpals is intended to reorganise a similar service on a more satisfactory basis both from the point of view of the Government and of the employees themselves. Under the new scheme, the Lekhpals are intended to be whole-time servants of the Government on a considerably higher scale of pay and with better prospects subject, of course, to the Government Servants Conduct Rules. If the Government have decided to exclude all those who had proved themselves as part-time servants of the Government to be lacking in a sense of discipline and of responsibility, it cannot be said that that they had been denied equal opportunity of appointment and employment under the Government. Government have not laid down rules excluding any particular group of persons from being candidates for appointment. They had only issued departmental instructions not to employ those who had not a satisfactory record of service in the past. ***Selection for appointment in Government service has got to be on a competitive basis and those whose past service has been free from blemish can certainly be said to be better qualified for Government service than those whose record was not free from any blemish.*** *The matter thus stands on a basis similar to where the Government may make it a condition precedent to promotion to a higher rank in the same cadre of Government service that only those who had a very satisfactory record in the past would be considered for promotion. It must therefore be held that the petitioners have failed to substantiate their contention that they had been denied equality of opportunity as contemplated by Article 16 of the Constitution."*

8.3. Reference may also be had to *Maharashtra Public Service Commission Vrs. Sandeep Shriram Warade and Others, (2019) 7 SCR 94,* wherein the following observation is made:

> *"10.* ***The essential qualifications for appointment to a post are for the employer to decide. The employer may prescribe additional or desirable qualifications, including any grant of preference. It is the employer who is best suited to decide the requirements a candidate must possess according to the needs of the employer and the nature of work.*** *The Court cannot lay down the conditions of eligibility, much less can it delve into the issue with regard to desirable qualifications being at par with the essential eligibility by an interpretive re-writing of the advertisement. Questions of equivalence will also fall outside the domain of judicial review. If the language of the advertisement and the rules are clear, the Court cannot sit in judgment over the same.* ***If there is an ambiguity in the advertisement or it is contrary to any rules or law the matter has to go back to the appointing authority after appropriate orders, to proceed in accordance with law. In no case can the Court, in the garb of judicial review, sit in the chair of the appointing authority to decide what is best for the employer and interpret the conditions of the advertisement contrary to the plain language of the same.***
>
> *11. The fact that an expert committee may have been constituted and which examined the documents*

before calling the candidates for interview cannot operate as an estoppel against the clear terms of the advertisement to render an ineligible candidate eligible for appointment."

8.4. Meticulous reading of Order dated 01.09.2015 it is apparent that the learned Single Judge while disposing of W.P.(C) No.19653 of 2010 observed that *"subsequent change of any qualification cannot be taken into consideration because the selection process has to be held in terms of the advertisement issued"*. Whereas the advertisement was issued on 18.10.2010 by the OUAT, appointing authority, specifying the qualification for the post of Placement Officer, the opinion of the Law Department was communicated by the Agriculture Department on 20.06.2014. Though the petitioner in the written note of submission dated 11.08.2026 (furnished in course of hearing of the present matter) laid much emphasis on the interim Order dated 19.11.2010, no copy of said document was placed on record for perusal of this Court. Nonetheless, by the date of final order disposing of the petition, W.P.(C) No.19653 of 2010, on 01.09.2015, the process of selection was commenced. There cannot be any cavil that the process of recruitment begins with issue of advertisement and culminates in forwarding of the list of selected candidate to the appointing authority and in view of Judgment dated 10.09.2025 of this Court in *State of Odisha and*

Others Vrs. Supriya Kar and Others, W.A. No.138 of 2025 relying on *Tej Prakash Pathak and Others Vrs. Rajasthan High Court and others, (2013) 4 SCC 540* the understanding of the petitioner that such changed criteria in terms of the opinion of the Law Department could have been taken into consideration by the learned Single Judge overriding the qualification specified in the advertisement is misconceived. However, the matter in W.P.(C) No.19653 of 2010 attained finality on dismissal of the writ appeal *vide* Order dated 18.12.2015 read with Order dated 19.12.2019 passed in review petition, RVWPET No.211 of 2016.

8.5. Even otherwise, reference made to *S.P. Chengalvaraya Naidu Vrs. Jagannath, (1994) 1 SCC 1* and *E.P. Royappa Vrs. State of T.N., (1974) 4 SCC 3* by the learned Counsel for the petitioner to contend that withholding vital document would tantamount to fraud on the Court is misdirected. In *Madhuchhanda Sahoo Vrs. Odisha State Health and Family Welfare Society, 2024 ILR-CUT ONLINE 218* and *Pratap Chandra Mohanty Vrs. Indian Oil Corporation Ltd., O.J.C. No.14605 of 1997 decided on 29.05.2026* it has been observed by this Court that there has to be very strong and convincing evidence to establish the allegations of *mala fides* specifically alleged in the petition as the same cannot merely be presumed. The presumption is in favour of the *bona fides* of the

order unless contradicted by acceptable material. It has further been observed that in case allegations of *mala fide* are made against any person he is to be impleaded by name, otherwise the allegations cannot be considered. On such ground also, the arguments advanced by the learned counsel for the petitioner fails.

8.6. In respect of status of the interim order after final disposal of main case, it may be highlighted that in *Faizabad-Ayodhya Development Authority Vrs. Dr. Rajesh Kumar Pandey, (2022) 3 SCR 190* it has been observed as follows:

> *"323.In GTC Industries Ltd. Vrs. Union of India, (1998) 3 SCC 376, it was observed that while vacating stay, it is the court's duty to account for the period of delay and to settle equities. It is not the gain which can be conferred. In Jaipur Municipal Corpn. Vrs. C.L. Mishra, (2005) 8 SCC 423, it has been observed that* ***interim order merges in the final order, and it cannot have an independent existence, cannot survive beyond final decision****. In Ram Krishna Verma Vrs. State of U.P., (1992) 2 SCC 620, reliance was placed on Grindlays Bank Ltd. Vrs. CIT, (1980) 2 SCC 191. It was held that no one could be permitted to suffer from the act of the court and in case an interim order has been passed and ultimately petition is found to be without merit and is dismissed, the interest of justice requires that any undeserved or unfair advantage gained by a party invoking the jurisdiction of the court must be neutralised."*

8.7. In the case of *State of U.P. Vrs. Prem Chopra, 2022 SCC OnLine SC 1770*, it is held as under:

> *"18. There is a difference between stay of operation of an order and quashing of an order which has been explained by this Court in Shree Chamundi Mopeds Ltd. Vrs. Church of South India Trust Assn., (1992) 3 SCC 1 as under:*
>
> > *'10. … While considering the effect of an interim order staying the operation of the order under challenge, a distinction has to be made between quashing of an order and stay of operation of an order. Quashing of an order results in the restoration of the position as it stood on the date of the passing of the order which has been quashed. The stay of operation of an order does not, however, lead to such a result. It only means that the order which has been stayed would not be operative from the date of the passing of the stay order and it does not mean that the said order has been wiped out from existence.*
>
> *19. Following the said decision, this Court in Kanoria Chemicals and Industries Ltd. Vrs. U.P. SEB, (1997) 5 SCC 772, has held that an order of stay which is granted during the pendency of a writ petition/suit or other proceeding comes to an end with the dismissal of the substantive proceedings and it is the duty of the court in such cases to put the parties in the same position that they would have been in but for the interim order of the court. In that case, this Court rejected the contention that when the operation of the notification itself was stayed, no*

surcharge could be demanded upon the amount withheld. It was held thus:

*'11. … Holding otherwise would mean that even though the Electricity Board, who was the respondent in the writ petitions succeeded therein, yet deprived of the late payment surcharge which was due to it under the tariff rules/regulations. It would be a case where the Board suffers prejudice on account of the orders of the court and for no fault of its. It succeeds in the writ petition and yet loses. The consumer files the writ petition, obtains stay of operation of the notification revising the rates and fails in his attack upon the validity of the notification and yet he is relieved of the obligation to pay the late payment surcharge for the period of stay, which he is liable to pay according to the statutory terms and conditions of supply — which terms and conditions indeed form part of the contract of supply entered into by him with the Board. We do not think that any such unfair and inequitable proposition can be sustained in law. … **It is equally well settled that an order of stay granted pending disposal of a writ petition/suit or other proceeding, comes to an end with the dismissal of the substantive proceeding and that it is the duty of the court in such a case to put the parties in the same position they would have been but for the interim orders of the court.** Any other view would result in the act or order of the court prejudicing a party (Board in this case) for no fault of its and would also*

mean rewarding a writ petitioner in spite of his failure. We do not think that any such unjust consequence can be countenanced by the courts. As a matter of fact, the contention of the consumers herein, extended logically should mean that even the enhanced rates are also not payable for the period covered by the order of stay because the operation of the very notification revising/enhancing the tariff rates was stayed. Mercifully, no such argument was urged by the appellants. It is ununderstandable how the enhanced rates can be said to be payable but not the late payment surcharge thereon, when both the enhancement and the late payment surcharge are provided by the same notification — the operation of which was stayed.'

***

24. *From the above discussion, it is clear that imposition of a stay on the operation of an order means that the order which has been stayed would not be operative from the date of passing of the stay order. However, it does not mean that the stayed order is wiped out from the existence, unless it is quashed.* ***Once the proceedings, wherein a stay was granted, are dismissed, any interim order granted earlier merges with the final order. In other words, the interim order comes to an end with the dismissal of the proceedings.*** *In such a situation, it is the duty of the court to put the parties in the same position they would have been but for the interim order of the court, unless the order granting interim stay or final order dismissing the proceedings specifies otherwise. On the dismissal of*

the proceedings or vacation of the interim order, the beneficiary of the interim order shall have to pay interest on the amount withheld or not paid by virtue of the interim order."

8.8. This point as agitated by the learned counsel for the petitioner can be analysed on different angle. The petitioner at paragraph 14 of the writ petition enclosed the Letter dated 20.06.2014 of the Agriculture Department which spelt out about his posting as Placement Officer by indicating qualification as per the opinion of the Law Department. The Law Department is not the appointing authority. However, in the written note of submission a stand is taken that the opposite parties have concealed such fact from presenting the same before this Court in the earlier round of litigation. Minute scrutiny of pleadings in the writ petition does not emerge the fact of source of such letter being available to the petitioner. Be that be, had the letter been within his knowledge, there is no explanation as to why the same was not adduced before the Court in earlier round of litigation. There is nothing on record to suggest that such letter could come to be noticed by the petitioner after disposal of special leave petition or review petition. Even such fact is placed, the result would not have changed as it is the author (appointing authority) who is competent to prescribe requisite qualification for the post of Placement Officer and once advertisement has

been issued with requisite qualification the same could not be changed.

8.9. A reference to *Makardhwaj Ram Vrs. Jagdish Rai (Dead) Th. Lrs. & Anr., (2026) 7 SCR 240* may be relevant in this regard, wherein it has been observed that:

> *"8. From a considered perusal of the above judgments, the following aspect of constructive res judicata can be highlighted:*
>
> *8.1 Constructive res judicata mandates that all grounds that might and ought to have been employed in the proceedings, should be employed to avoid multiplicity of proceedings.*
>
> *8.2 It is a deeming fiction of law, but its application is not uniform and instead is dependent on the facts and circumstances of a particular case with 'due regard to ambit of the earlier proceedings' and 'the nexus which the matter bears to the nature of the controversy'.*
>
> *8.3 This principle is founded on public policy. It is a generally acceptable rule that one person should not be "vexed twice over" for the same kind of litigation. As such, it also applies to the proceedings under Article 226/32 of the Constitution of India.*
>
> *8.4 In respect of 'ought' referred above, the said word implies the threshold to be above mere possibility.*
>
> *8.5 The parties while conducting litigation are expected to apply 'reasonable diligence', 'legitimate purview'. It is from this lens that it shall be adjudicated whether all issues that were properly arising to the*

litigation; which ought to have been raised; were raised or not?

8.6 The principle applies with equal force in cases where the ground that might and ought to have been raised was not done, on account of negligence, inadvertence or accident. In other words, might and ought to apply cumulatively with full force, without exception. The party therefore commits these errors at their own peril."

8.10. With the above legal perspective, the opposite party No.5 being appointed in the post of Placement Officer after dismissal of writ appeal in the year 2015 cannot be said to be malicious or whimsical. Under the aforementioned circumstances, this Court finds no suppression of material fact and violation of interim order.

9. Last ditch attempt has been made by the learned counsel for the petitioner to salvage the plea of the petitioner. It is submitted by Sri Satya Narayan Mohapatra, learned Advocate that the rejection of the representation to give effect to/implement Order dated 19.12.2019 passed in petition being RVWPET No.211 of 2016 of this Court *vide* Order dated 15.12.2020 passed by the Vice-Chancellor, OUAT is incorrect approach and outcome of misreading of the case of the petitioner. Indubitably the record suggests that the advertisement dated 18.10.2010 specified qualification to be satisfied for making application for the post of Placement Officer,

which is a single post to be filled up by way of direct recruitment process and it is not a promotional post. Counsel representing respective opposite parties unequivocally submitted that once eligibility criteria is reflected in the advertisement till the recruitment process is completed, change of such condition is impermissible in law.

9.1. It is settled that any recruitment process is to be followed and concluded in the light of the Recruitment Rules. In *Ramkhiladi Sharma Vrs. National Health Mission, 2020 SCC OnLine MP 2975* it has been observed thus:

> *"9. In case of Zonal Manager, Bank of India, Zonal Office, Kochi Vrs. Aarya K. Babu (2019) 8 SCC 587, the Apex Court has held as under:*
>
> > *"12. Though we have taken note of the said contention we are unable to accept the same. We are of such opinion in view of the well-established position that it is not for the Court to read into or assume and thereby include certain qualifications which have not been included in the Notification by the employer. Further the rules as referred to by the learned counsel for the respondents is pointed out to be a rule for promotion of officers. That apart, even if the qualification prescribed in the advertisement was contrary to the qualification provided under the recruitment rules, it would have been open for the candidate concerned to*

challenge the Notification alleging denial of opportunity. On the other hand, having taken note of the specific qualification prescribed in the notification it would not be open for a candidate to assume that the qualification possessed by such candidate is equivalent and thereby seek consideration for appointment nor will it even be open for the employer to change the requirements midstream during the ongoing selection process or accept any qualification other than the one notified since it would amount to denial of opportunity to those who possess the qualification but had not applied as it was not notified.'

10. In view of above, the subsequent relaxation in the essential qualification/disqualification notified by advertisement Annexure P-1 cannot be made applicable to the on-going recruitment in question and thus petitioners cannot reap advantage of the same."

9.2. It is submitted by the opposite parties that even if qualification suggested by the Law Department in its opinion is taken, since the petitioner has no requisite qualification as specified in the advertisement dated 18.10.2010, this Court did rightly not interfere with the criteria specified in the advertisement in the earlier round of writ petition, *i.e.,* W.P.(C) No.19653 of 2010, disposed of by Order dated 01.09.2015.

9.3. It is evident from the documents forming part of record that even though in consideration of review petition,

being RVWPET No.211 of 2016, filed at the behest of the petitioner after disposal of Special Leave Petition by the Hon'ble Supreme Court of India, this Court deleted paragraph 2 of Order dated 18.12.2015 passed in W.A. No.630 of 2015, the consequent effect would indicate that the writ appeal challenging Order dated 01.09.2015 passed in W.P.(C) No.19653 of 2010 got dismissed in view of paragraph 3 of said order in writ appeal. Therefore, essentially the Order of learned Single Judge dated 01.09.2015 attained finality. It is the observation of the learned Single Judge in the writ petition, being W.P.(C) No.19653 of 2010, *vide* Order dated 01.09.2015 stands undisturbed till date. The learned Single Judge observed that since the petitioner lacked the requisite qualifications stipulated in the advertisement, any subsequent change in qualification cannot be taken into consideration. This observation flies in the face of the petitioner's current contentions. Hence, the representation of the petitioner before the authorities cannot resurrect stale claim.

9.4. It would be submitted by the opposite parties that even when an order has been passed on the basis of a representation preferred by an employee, the same would not give life to a stale claim for consideration of qualification set forth in the advertisement dated 18.10.2010 and consequent upon disposal of writ

petition, writ appeal, special leave petition and review petition, successive writ petition in the garb of re-examining the issue of specifying criteria for appointment to the post of Placement Officer in the advertisement dated 18.10.2010 cannot be maintainable. [Refer, *State of Tripura Vrs. Arabinda Chakraborty, (2014) 6 SCC 460, Naresh Kumar Vrs. Government (NCT of Delhi), (2019) 9 SCC 416, Union of India Vrs. M.K. Sarkar, (2010) 2 SCC 59 and State of Uttar Pradesh Vrs. Rajmati Singh, 2022 SCC OnLine SC 1785*].

9.5. This Court neither in Order dated 01.09.2015 passed in W.P.(C) No.19653 of 2010 nor in Order 18.12.2015 passed in W.A. No.630 of 2015 read with Order dated 19.12.2019 passed in RVWPET No.211 of 2016 granted any leave to the petitioner to file representation. However, such representation being rejected by the Vice-Chancellor by Order dated 15.12.2020 (Annexure-16) no fault could be demonstrated by the petitioner.

Conclusion:

10. The above discussions on factual matrix as also the conspectus of legal position as set forth by the Courts do not leave option to take any contrary view than to say that the writ petition is devoid of merit and hence, no relief, as claimed by the petitioner, can be granted.

11. For the reasons ascribed to in the foregoing paragraphs, this Court declines to show indulgence in the Office Order dated 26.12.2015 passed by the Vice-Chancellor of the Odisha University of Agriculture and Technology, Bhubaneswar appointing the opposite party No.5 (Ashirbad Satapathy) as Placement Officer (Annexure-14) and the Order *vide* Letter No.17431— E-I-II-18/2009/UAT, dated 15.12.2020 of Vice-Chancellor, OUAT (Annexure-16) rejecting the representations of the petitioner requesting therein to appoint him in the post of Placement Officer.

12. In the result, the writ petition, being W.P.(C) No.18436 of 2021, challenging Order dated 15.12.2020 of the Vice-Chancellor of the OUAT (Annexure-16) and Office Order dated 26.12.2015 of the Vice-Chancellor of the OUAT (Annexure-14) stands dismissed, but in the circumstances, there shall be no order as to costs.

(MURAHARI SRI RAMAN)
JUDGE

Signature Not Verified
Digitally Signed
Signed by: ASWINI KUMAR SETHY
Designation: Personal Assistant
(Secretary in-charge)
Reason: Authentication
Location: ORISSA HIGH COURT, CUTTACK
Date: 27-Aug-2026 17:21:29