

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.104 of 2022

Bharat Chandra Nayak

....

Petitioner

-versus-

Odisha Gramya Bank, BBSR & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

27.09.2022

Order No

- 05.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. B.B. Swain, learned counsel for the Petitioner and Mr. S.C. Samantaray, learned counsel appearing for the Opp. Party-Bank.
3. The present writ Petition has been filed by the Petitioner challenging the rejection of his claim for reinstatement vide order dtd.30.11.2022 under Annexure-6.
4. It is submitted that the Petitioner while continuing as an Office Assistant in Odisha Gramya Bank Gadisagada Branch, he was dismissed from his service because of the order of conviction and sentence passed in S.T. Case No. 83/143 of 2009 by the leaned Asst. Sessions Judge, Puri vide its Judgment dtd.22.03.2014 under Annexure-2.
5. It is submitted that the Petitioner challenging such order of conviction and sentence preferred an appeal before the learned Sessions Judge, Puri and the matter was ultimately taken up by the

1st Addl. Sessions Judge, Puri in Criminal Appeal No.01/15 of 2015/14. Vide its Judgment dtd.03.08.2021 under Annexure-3, the Petitioner is acquitted from the charges and the order of conviction and sentence passed by the learned Asst. Sessions Judge was set aside.

6. Mr. Swain, learned counsel for the Petitioner submitted that on his acquittal from the charges vide Judgment dtd.03.08.2021 the Petitioner placing reliance on the provision contained under Regulation 30(4) of Odisha Gramya Bank (Officers & Employees Service Regulations), 2010 made an application seeking his reinstatement. It is submitted that as per the said provision when an officer or employee has been dismissed in pursuance of Regulation 30(3) and the conviction is set aside by the Higher Court and the officer and employee is acquitted, he shall be reinstated in the service of the Bank.

7. Mr. Swain, learned counsel for the Petitioner submitted that in spite of such clear provision contained in the Regulation, the Petitioner though was eligible for his reinstatement, but the O.P. No. 2 vide the impugned order dtd.30.11.2021 rejected the said prayer of the Petitioner only on the ground that an appeal against the order of acquittal has been filed in Criminal Appeal No.580 of 2021 before this Court.

8. Mr. Swain, learned counsel for the Petitioner further submitted that in view of the clear provision contained under Regulation 30(4) of the 2010 Regulation, the Petitioner is eligible for his reinstatement and mere pendency of an appeal at the instance of the informant is not a ground to deny the benefit of reinstatement. It is also submitted that Regulation 30(4) has got no rider disentitling

any employee for his reinstatement after being acquitted by the Competent Court.

9. Mr. Samantaray, learned counsel appearing for the Bank on the other hand submitted that since against the order of acquittal an appeal is pending before this Court, the claim of the Petitioner has been rightly rejected vide the impugned order dtd.30.11.2021 under Annexure-6 and no interference is called for.

10. Though Mr. Samantaray basing on the stand taken in the counter affidavit urged some other grounds, but this Court finds that the prayer for reinstatement was rejected only on the ground that an appeal is pending against the order of acquittal. Therefore, no other stand can be urged by the Bank save and except the grounds taken in the impugned order in view of the decision of the Hon'ble Apex Court reported in the case of ***Mahendra Singh Gill & Anr. vs Chief Election Commissioner, reported in 1978 AIR 851..***

11. Having heard learned counsel for the Parties and taking into account the materials available on record, this Court finds that since the Petitioner has been acquitted by the Competent Court of law, unless and until the order is set aside, the Petitioner is to be treated as a free man in the eye of law.

12. Therefore, in view of the provision contained under Regulation 30(4) of the Bank's Regulation, the Petitioner is eligible for his reinstatement. Hence, this Court is inclined to quash the order dtd.30.11.2021 passed by the O.P. No. 2 under Annexure-6. While quashing the same, this Court directs the Opp. Party-Bank to reinstate the Petitioner in his service and such order of reinstatement shall be issued within a period of 15 (fifteen) days

from the date of receipt of this order. However, it is observed that such reinstatement of the Petitioner shall be subject to final outcome of Criminal Appeal No.580 of 2021 and such order of reinstatement shall not confer any equity on the Petitioner.

13. The writ Petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Sneha

