

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.247 of 2021

Jitendra Kumar Dalai

....

Petitioner

Mr. Digambar Sethi, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. YSP Babu, AGA

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

07.07.2022

Order No.

05. 1. Heard learned counsel for the Petitioner as well as learned Additional Government Advocate for the State-Opp. Parties.
2. The writ petition has been filed by the Petitioner seeking the following relief:

“Under the circumstances, the petitioner most humbly prays that this Hon’ble Court may be graciously pleased to issue rule NISI calling upon the Opp. Party as to why the Order No.WORKS-CON-CASES-0211-2020 15917 dtd.30.12.2020 under Annexure-6 passed by the Opp. Party shall not be quashed and why a direction shall not be issued to him directing to reinstate the petitioner in his post with all the monetary benefits as admissible to him.

And if the Opposite Party fails to show cause or show insufficient cause, make the said Rule absolute and quash the Order No.WORKS-CON-CASES-0211-2020 15917 dtd.30.12.2020 under Annexure-6 passed by the Opp. Party and directs him to reinstate the petitioner in his post.

And further be pleased to pass any other order(s) as deemed fit and proper in the circumstances of the case;

And for this act of kindness, the Petitioner shall as in duty bound ever pray.”

3. As it appears the Petitioner has filed the above noted writ petition challenging the order dated 30.12.2020 under Annexure-6 whereunder the Petitioner has been given compulsory retirement by his employer under Rule 71 of the Odisha Service Code. It is further submitted by learned counsel for the Petitioner that he is entitled to pension. It is also contended by the learned counsel for the Petitioner that while he was in service, two vigilance cases, i.e. one in T.R. Case No.354/2007 (323/2014), arising out of Cuttack Vigilance P.S. Case No.27/1999 and the other one in T.R. Case No.228/2007 (412/2014), arising out of Cuttack Vigilance P.S. Case No.28/1999, were initiated against the Petitioner before the Special Judge, Vigilance, Cuttack ended in acquittal of the Petitioner vide Judgment date 13.04.2022 and 29.06.2022 respectively.

4. In view of the aforesaid submission of learned counsel for the Petitioner, let the order under Annexure-6 be reviewed by the Authority in view of the observation of the court below, which has been quoted in the judgments delivered in the aforesaid vigilance cases.

5. Learned counsel for the State on the other hand submits that the Authority after taking a lawful decision in the matter and after considering the suitability of the petitioner under rule 71(a) of Orissa Service Code has already taken a final decision. Thus no error has been committed by the trial court while passing the order dated 30.12.2020. Further he submits that in view of the latest developments, let the Petitioner approach the competent authority by filing a detailed representation along with supporting documents. In the event such a representation is filed, the Authority shall consider the same within a stipulated period of time in accordance with law.

6. Considering the aforesaid submission and further taking into consideration the materials placed before this Court, this Court feels it appropriate to dispose of the writ petition at the stage of admission by directing the Petitioner to file a fresh representation along with supporting documents before the Opposite Party No.1 within a period of two weeks from today (now Principal Secretary to Govt. Works Department, Odisha, Bhubaneswar). In such event the Opp. Party No.1 do well to consider the same and dispose of the same by passing a speaking and reasoned order within a period of within two months from the date of filing of such representation. Decision so taken, be communicated to the Petitioner within ten days thereafter.

7. With the above observation and direction, the writ petition stands disposed of.

8. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge