

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 12685 of 2014

Rabindra Kumar Jagdev

.....

Petitioner

Mr. R. Achary, Advocate

Vs.

State of Odisha and others

.....

*Opposite parties
Standing Counsel*

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

24.02.2022

Order No.

05

This matter is taken up by hybrid mode.

2. Heard Mr. R. Achary, learned counsel for the petitioner and Mr. Bharadwaj, learned Addl. Standing Counsel.

3. Mr. R. Achary, learned counsel for the petitioner contended that since the petitioner was discharged from service, he had approached this Court earlier by filing W.P.(C) No.4897 of 2010, which was disposed of, vide order dated 30.08.2010, to consider the appeal of the petitioner. On consideration of the same, the order impugned dated 29.10.2011 has been passed stating that since the appeal was filed after eight years, the physical and mental fitness of the petitioner are not certain and, as such, there was no scope for ordering his re-enrollment and accordingly disallowed the appeal. It is contended that the since the case of the petitioner has not been considered by the authority even though this Court passed order to consider his appeal, the petitioner has approached this Court by filing the present

writ petition.

4. Mr. Bharadwaj, learned Addl. Standing Counsel contended that since the petitioner, who was enrolled as a Home Guard and discharged from service, but as required under law, the petitioner has to prefer appeal and, as such, he has not approached the authority concerned well within the time stipulated. It is contended that the petitioner had earlier approached this Court by filing W.P.(C) No.4897 of 2010, which was disposed of, vide order dated 30.08.2010, to consider his appeal and in compliance of the order passed by this Court, the order impugned has been passed. Therefore, this Court should not interfere with the same at this belated stage.

5. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner was enrolled as a Home Guard in Nayagarh district on 09.07.1997 and, as such, he has to appear before the Review Board in every three years terms for suitability for further continuance in the organization. But after completion of three years, the Review Board under the chairmanship of the then Commandant Home Guards, reviewed his suitability to continue in Home Guard in the organization and, as such, he was found unsuitable. Therefore, he has not been allowed to continue in service and, as such, due to his indiscipline conduct, irregularity and physically unfit to hold the post of Home Guard, he was discharged from service w.e.f. 31.01.2003. But the petitioner slept over the matter for quite long period and after lapse of seven years, the petitioner had approached this Court by filing W.P.(C) No.4897 of 2010,

which was disposed of, vide order dated 30.08.2010, to consider the appeal. In compliance of the said order, the opposite parties have passed the order impugned stating that the petitioner had approached the authority at a belated stage, i.e. after eight years and, as such, his physical and mental fitness are not certain and, therefore, there was no scope for ordering his re-enrollment, as found by the Review Committee in the year 2003. Thereby, reconsideration of the case of the petitioner for re-engagement does not arise.

6. In the above view of the matter, this Court is not inclined to entertain this writ petition. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

Ashok



(DR. B.R. SARANGI)
JUDGE