

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.4343 of 2002

Bijoy Kumar Das

.....

Petitioner

Mr. U.C. Mohanty, Adv.

Vs.

***Orissa Administrative Tribunal,
Cuttack Bench, Cuttack
& others***

.....

Opposite Parties

Mr. S. Rath, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. MISHRA

ORDER

26.07.2022

Order No.

06.

This matter is taken up through hybrid mode.

2. Heard Mr. U.C. Mohanty, learned Counsel appearing for the Petitioner and Mr. S. Rath, learned Addl. Standing Counsel for the State-Opposite Parties.

3. The Petitioner has filed this Writ Petition seeking to quash the Order of termination from service under Annexure-9 dated 19.09.2002 and also the Order dated 08.10.2002 passed by the Orissa Administrative Tribunal in O.A. No.2754(C)/2002 under Annexure-10, and to issue direction to the Opposite Party Nos. 2 to 6 to allow him to continue in service as before.

4. The factual matrix of the case, in brief, is that the Petitioner was initially engaged on ad hoc basis and subsequently by duly constituted Selection Committee, he was regularized as an Attendant in the year, 1998. While continuing as such, by Order dated on 08.10.2002 in Annexure-10, his service was terminated stating that his appointment was irregular. Aggrieved by the said Order, the Petitioner approached the Tribunal by filing O.A. No.2754(C)/2002, but the Tribunal, by observing that the Petitioner was not in service from 19.09.2002, did not feel

inclined to entertain the Original Application and dismissed the same.

5. Mr. U.C. Mohanty, learned Counsel for the Petitioner contended that the Petitioner is continuing in service in spite of Order of termination passed by the Authority, by virtue of the Interim Order passed by this Court on 29.11.2002 in Misc. Case No.3117 of 2002, which continued from time to time, on being clarified, Vide Order dated 09.12.2002. It is contended that since the Petitioner is still continuing, any Order of termination passed, without complying the Principles of Natural Justice, is liable to be quashed. It is further contended that similar matter had come up for consideration before this Court in W.P.(C) No.2862 of 2002, (**Sudhanshu Mohan Mohanty v. State of Odisha**), and this Court by Order dated 07.12.2021 quashed the Order of termination, as the same is not in compliance of the Principles of Natural Justice. To substantiate his contention, reliance was placed on the judgment of the apex Court in the case of **Basudeo Tiwary vs. Sido Kanhu University and others**, AIR 1998 SC 3261.

6. Mr. S. Rath, learned Addl. Standing Counsel appearing for the State-Opposite Parties contended that since the Petitioner has already been terminated from service w.e.f. 2002, the Order so passed by the Tribunal is well justified and does not require any interference of this Court at this stage.

7. Having heard learned Counsel for the Parties and after perusing the records, this Court finds that since the service of the Petitioner in **Sudhanshu Mohan Mohanty**, (supra) was terminated without complying the Principles of Natural Justice, this Court, vide Order dated 07.12.2021, to which one of us (Dr. B.R. Sarangi,J), was a Party, quashed the Order of termination on

the ground of non-compliance of Principles of Natural Justice relying upon the judgment of this Court in the case of ***Mamata Manjari Mohanty vs. State of Odisha***, (WPC (OAC) No.3077 of 2014 disposed of on 17.08.2021).

8. In the above view of the matter, applying the aforesaid principles to the present case, this Court is of the considered view that the Order of termination cannot sustain in the eye of law, in view of the judgment of the apex Court in the case of ***Basudeo Tiwary*** (supra), wherein it has been held that termination, if made, without complying the Principles of Natural Justice, cannot sustain in the eye of law.

9. In view of such position, the Order dated 19.09.2002 passed by the Authority under Annexure-9 and consequential Order dated 08.10.2002 passed in O.A. No.2754 (C)/2002 by the Tribunal Annexure-10 cannot be sustained in the eye of law and are hereby quashed. Accordingly, the same are hereby quashed.

10. Accordingly, the Writ Petition stands disposed of.
Issue urgent certified copy as per Rules.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE

Ashok/Padma