

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6179 of 2022

Smt. Nirmala Sahoo

..... Petitioner
Mr.P.K. Mishra, Advocate

-versus-

State of Odisha and others

..... Opposite Parties
Mr. Y.S.P. Babu, AGA for State

CORAM:
JUSTICE A.K.MOHAPATRA

ORDER
21.03.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned counsel for the State.
3. The sole grievance of the Petitioner in the present writ petition is that although she has been acquitted from the charge of a criminal case, the Department is not reinstating her in service.
4. Learned counsel for the Petitioner further submits that initially Petitioner was engaged as a contractual Junior Engineer (Contractual). While working as such, she was entangled in a vigilance case for commission of alleged offence under Section 7 of the Prevention of Corruption Act, 1988. However, on perusal of paragraph-16 the judgment of the trial court, which has been annexed to the writ petition at Annexure-9, it is found that learned trial court has acquitted the present Petitioner on the ground that the prosecution has failed miserably to establish the charge of offence

u/s.7 and 13(2) read with Section 13(1)(d) of the P.C. Act against the Petitioner and therefore she has been acquitted of the charge under Section 248(1) Cr.P.C. It was further submitted by learned counsel for the Petitioner after acquittal in the vigilance case, the Petitioner approached the Authority by filing a representation dated 04.10.2018, which is filed along with the writ petition as Annexure-10. It is further submitted that pursuant to the said representation, the Authority sought for clarification from the Vigilance Department. The Vigilance Department vide its letter dated 28.01.2020 (Annexure-12) has informed the Deputy Secretary to Government, Housing and Urban Development Department, Odisha, Bhubaneswar that in fact the Petitioner has been acquitted from the charges on 16.04.2018 and that the Department has decided not to prefer any appeal against the order of acquittal. After such intimation from the Vigilance Department, the Housing and Urban Development Department did not take any action on the representation of the Petitioner dated 07.09.2020 (Annexure-13). It was alleged that after filing of the aforesaid representation, the Petitioner did not get any information with regard to the status of her representation. However, upon query being made under the Right to Information Act, the Housing and Urban Development Department vide its letter dated 17.01.2022 has intimated the Petitioner that the Department regrets her request for re-engagement as Junior Engineer by revoking the dismissal order.

5. On a perusal of the letter dated 17.01.2022, this Court is of the considered view that the same has been issued in a slipshod manner. Accordingly, this Court holds that the decision communicated to the Petitioner under intimation dated 17.01.2022

appears to be arbitrary and whimsical and accordingly the same is hereby set aside. However, Opposite Party No.1 is directed to consider the representation of the Petitioner dated 07.09.2020 afresh by taking all the developments taken place in the matter including the intimation received from the Vigilance Department strictly in accordance with law. It is needless to mention here that the representation shall be considered in accordance with law and shall be disposed of by passing a speaking and reasoned order within a period of two months from the date of production of certified copy of this order. Decision so taken, shall be communicated to the Petitioner within a period of two weeks thereafter.

6. With the aforesaid direction, the writ petition stands disposed of.

7. Issue urgent certified copy as per rules.

(A.K. Mohapatra)
Judge