

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.6760 of 2022

G. Bhaskar Lingam **Petitioner**

-versus-

GM, HAL, Koraput & Ors. **Opposite Parties**

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
22.09.2022**

Order No

- 02.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. S. Pattanaik, learned counsel for the Petitioner and Mr. Suvendu Kar, learned counsel on behalf of Mr. A.R. Dash, learned counsel appearing for the Opp. Parties.
3. The present writ Petition has been filed by the Petitioner challenging the order dtd.18.02.2022 passed by the O.P. No. 4 in refusing to reinstate the Petitioner in consideration of his appeal made on 23.08.2021.
4. Mr. Pattanaik, learned counsel for the Petitioner submitted that the Petitioner while working as a Fitter under the Opp. Parties, he was proceeded in a Departmental Proceeding initiated on 09.08.1994. It is also submitted that for the self same charges the Petitioner also faced a Criminal Proceeding in G.R. Case No. 411 of 1994 in the Court of learned Civil Judge (Jr. Division) –cum-JMFC, Koraput.
5. It is submitted that in the Departmental Proceeding the Petitioner after being found guilty was dismissed from his service vide order

dtd.03.04.1995. It is further submitted that in the Criminal Proceeding the Petitioner was acquitted vide Judgment dtd.25.03.2021 under Annexure-11. It is submitted that after his acquittal in the Criminal Proceeding the Petitioner though made application seeking his re-instatement on the ground that for the self same charges he has been acquitted in the Criminal Proceeding, but the said prayer is not considered and rejected vide the impugned order at Annexure-13.

6. Mr. Pattanaik, learned counsel for the Petitioner submitted that in view of the acquittal of the Petitioner in the Criminal Proceeding and in view of the decision of the Hon'ble Apex Court reported in the case of *G.M. Tank v. State of Gujarat & Anr.* reported in *AIR 2006 SC 2129:2006 AIR SCW 2709* and *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. & Anr.* reported in *AIR 1999 SC 1416:1999 AIR SCW 1098* the Petitioner is entitled for his re-instatement and the said fact as well as the ratio of the said decisions has not been taken into consideration by the Opp. Party No. 4 while rejecting the prayer vide the impugned order at Annexure-13.

7. Mr. Kar, learned counsel for the Opp. Parties on the other hand submitted that the Petitioner has not been honourably acquitted in the Criminal Proceeding and he was acquitted only on the ground of benefit of doubt. It is also submitted that the Petitioner since is dismissed from service in the year 1995 and the order of acquittal was passed in 2021, no order of reinstatement can be passed due to such long inferral and his prayer has been rightly rejected.

8. Having heard learned counsel for the Parties and after going through the materials available on record this Court finds that for the self same charges both the Disciplinary Proceeding and the Criminal Proceeding were initiated against the Petitioner. Since the Petitioner has been acquitted in the Criminal Proceeding, the Opp. Party No. 4 while considering the prayer of the Petitioner for his reinstatement should have been taken into consideration the ratio decided by the Hon'ble Apex Court in the above noted two cases.

9. Since this Court finds that the ratio decided by the Hon'ble Apex Court has not been taken note of by the O.P. No. 4, this Court is inclined to quash the order dtd.18.02.2022 passed by the O.P. No. 4 under Annexure-13. While quashing the same this Court directs the O.P. No. 4 to take fresh decision in the light of the decision of the Hon'ble Apex Court rendered in the aforesaid cases.

10. This Court further observes that in view of the acquittal in the Criminal Proceeding, a lenient view be taken while considering the case of the Petitioner. The entire exercise shall be completed within a period of two (2) months from the date of receipt of this order. The Petitioner is directed to produce a copy of this order along with the cited decisions before O.P. No. 4 within a period of three (3) days from the date of receipt of this order.

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

(Biraja Prasanna Satapathy)
Judge

Sneha