

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9366 of 2022

Ajit Kumar Dalai

Petitioner
Mr. Alok Kumar Das , Advocate

-versus-

State of Odisha & others

Opposite Parties
Mr. K.K.Nayak, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

Order No.

01

ORDER
02.05.2022

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel.
3. The present writ application has been filed by the Petitioner with the following prayer: **स्वयमेव नयामि**

“It is therefore prayed that in the facts and circumstances stated above and in the interest of justice this Hon’ble Court may be pleased to restore the O.A. No.2066 of 1999 to the file of this Hon’ble Court and further be pleased to hear this case as per law.

And pass such other orders/issue such other directions as this Hon’ble Court may deem proper to secure the ends of justice.”

4. It is submitted by the learned counsel for the Petitioner that the Petitioner was appointed as Peon on ad hoc basis against vacant post vide Office Order dated 19.06.1999. While continuing as such, the Petitioner’s service was terminated on 22.10.1999. Thereafter the Petitioner filed O.A.No.2066 of 1999 in the Principal Bench of

Orissa Administrative Tribunal, Bhubaneswar. While the said Original Application was pending, learned conducting counsel passed away in the year 2013. Further it is submitted by the learned counsel for the Petitioner that the said original application was dismissed due to non-appearance of the learned counsel appearing for the applicant on 26.04.2012. In such view of the matter, learned counsel for the Petitioner submits that the order dated 26.04.2012 be recalled and the matter be taken up for hearing and the matter be disposed of on merit.

5. Learned Additional Standing Counsel on the other hand submits that there is an inordinate delay of almost 10 years in filing this application for revival of the original application which was dismissed due to non-appearance of the learned counsel appearing for the applicant in the said original application. Hence the learned State counsel objects for restoration of the original application.

6. Heard the learned counsel for the respective parties. This Court is of the considered view that no-doubt there is an inordinate delay of 10 years for seeking restoration of original application which was dismissed due to non-appearance of the learned counsel for the applicant. However, considering the submissions of the learned counsel for the Petitioner that the Petitioner came to know about the passing of the order dated 26.04.2012 recently when the matter was transferred to this Court and presently the present writ application was filed for restoration of the said original application.

7. Considering the submissions of the respective parties this Court is of the considered view that the restoration of the aforesaid original application at this stage will be futile exercise, instead this Court grants liberty to the Petitioner to file a fresh application on the self same cause of action by filing a fresh writ application. In the

event such a writ application is filed the same shall be considered.

8. With the aforesaid observation, the writ application stands disposed of.

9. Issue urgent certified copy of this order as per Rules.

RKS

(A.K. Mohapatra)
Judge

