

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) NO.3286 OF 2000

In the matter of an application under Section 19 of
the Administrative Tribunals Act, 1985

Dillip Kumar Pradhan

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

For Petitioner : M/s. J.K. Rath, Sr. Advocate
Mr. D.N. Rath, Advocate
For Opp. Parties: M/s. N.N. Satapathy,
Standing Counsel

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 10.5.2022 & Date of Order: 17.5.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up by video conferencing mode.
2. Heard Mr. J.K. Rath, learned Senior Counsel with Mr. D.N. Rath, learned counsel appearing for the Petitioner and Mr. N. N. Satapathy, learned Standing counsel appearing for the State-Opp. Parties.
3. The Petitioner has filed the present Writ Petition with the following prayer.

“The Hon'ble Tribunal be graciously
pleased to quash the order passed by the

Opposite Parties 1 and 2 vide Annexure-5 and Annexure-7 respectively and pleased to direct the opposite party No.3 not to terminate the services of the petitioner until the decision in the appeal is made by the appellate Court, i.e. Criminal Appeal No.12 of 2000 filed by the petitioner before the learned Sessions Judge, Dhenkanal.

And this Hon'ble Court, be further pleased to direct the opposite parties to fix the pay of the petitioner suitably under ORSP Rules, 1998, ORSP Rules, 2008 and ORSP Rules, 2017 by extending increments in such time scale of pay and accordingly to release the arrear differential amount to the petitioner within a time frame, since the criminal appeal filed by the petitioner ended in clean acquittal of the petitioner and there is no other proceeding either initiated or pending against the petitioner.

And this Hon'ble Court be further pleased to direct the opposite parties to extend the benefit of ACP/RACP as has been provided under ORSP Rules in favour of the Petitioner since the petitioner has completed more than 30 years of service in the single cadre post of Spinning and Weaving Instructor having no promotional avenues. Accordingly, the pay of the petitioner be fixed suitably and the arrear differential dues of the petitioner be released within a stipulated period."

4. Mr. Rath, learned Senior Counsel submitted that the Petitioner while continuing as a Spinning and Weaving Instructor in Nabakrushna Choudhury College of Teachers Education, he was issued with the orders at Annexure-5 & 7 proposing therein to terminate the petitioner from his service because of his conviction in a vigilance case. The Petitioner filed the present Writ Petition challenging both the orders.

5. It is submitted that this Court vide order dated 16.10.2000 stayed the operation of the said orders issued

under Annexures-5 & 7 and the petitioner accordingly was allowed to continue as before. It is further submitted that during pendency of this matter before this Court, the petitioner was acquitted from the said order of conviction and sentence vide judgment dated 21.7.2008 in CrI. Appeal No.12 of 2000 by the learned Sessions Judge. It is further submitted that the factum of such acquittal when was brought to the notice of this Court. This Court vide order dated 14.12.2000 directed the State Counsel to obtain instruction on the same. But, it is submitted that no instruction came forward and the counter affidavit was filed by the Opposite Parties, indicating therein that because of the conviction and sentence passed against the petitioner, the petitioner was issued with the orders under Annexures-5 & 7. But, it is fairly admitted that in view of the interim order passed on 16.10.2000, the petitioner continued in his service and he is also continuing as on date as such till date.

6. Heard learned counsel for the parties at length. Perused the materials available on record.

7. It is not disputed that the petitioner was threatened with termination with issuance of the impugned order vide Annexures-5 & 7 because of his

conviction and sentence passed in the vigilance case. It is also not disputed by either of the parties that the said order of conviction and sentence has been set aside by the competent appellate Court vide judgment dated 21.7.2008 in CrI. Appeal No.12 of 2000.

8. Since the Petitioner has been acquitted in the vigilance case and the said order having attained finality in the eye of law , the orders under challenge in the present Writ Petition has lost its force. Accordingly, this Court is inclined to quash the order under Annexures-5 & 7. Accordingly, while quashing the same, this Court directs Opp. Parties to extend all service and financial benefits as due and admissible in favour of the petitioner. It is directed that the entire exercise be completed within a period of four months from the date of receipt of the order.

9. The Writ Petition is disposed of accordingly.

.....
B.P. Satapathy, J.

Orissa High Court, Cuttack
Dated the 17th May, 2022/sangita