

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10933 of 2022

Samaresh Mohanty

.... ***Petitioner***
Mr. Manas Pati, Advocate

-versus-

State of Odisha and others

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

**CORAM:
JUSTICE A.K. MOHAPATRA**

ORDER
02.05.2022

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 present writ petition has been filed by the petitioner with the following prayer :-

“The petitioner therefore prays that your lordships may graciously be pleased to quash Annexures-3 & 4 and direct the Opp. Parties to allow continuing in the present place of posting i.e. Assistant Section Officer at RIPAE&s, Bhubaneswar with all consequential service and financial benefits.

And pass such order/directions as this Hon’ble Court may deem fit and proper”

4. Learned counsel for the petitioner submits that the petitioner belongs to Heads of Department Cadre and the petitioner is serving as Assistant Section Officer, DE&S, Bhubaneswar, which is a Directorate Cadre post. He further submits that as per G.A.

Department circular dated 29.07.1991 which clearly states that “In respect of Officers of non-transferable service likes the Ministerial cadres in the Secretariat and in the Heads of Department, nobody shall remain in a seat for more than three years. Hence, the case of the petitioner is not transferable. He further submits that as per letter dated 26th April, 2022, the petitioner has been transferred to Deputy Director (P&S) DPMU, Malkangiri on deployment basis against the existing vacant post on administrative ground.

5. Learned counsel for the petitioner further submits that the service condition in transferring or any deployment order 26th April, 2021 under Annexure-4 has been passed by the Opposite Party No.2 is erroneous and without jurisdiction. Hence, the order of transfer and posting be cancelled and a direction may be given to retain the same in his earlier post.

6. Learned counsel for the State submits that he has no objection, if a direction is given to the authorities to consider the grievance petition of the petitioner in accordance with law within a stipulated period of time. He further submits that the petitioner may be directed to file a fresh representation before the Director, Economics & Statistics, Odisha, Bhubaneswar-Opposite Party No.2 for consideration of his grievances.

7. Considering the aforesaid submissions made by the parties and limited nature of grievance, keeping in view the case of the petitioner, this Court disposes of the writ petition at the stage of admission with a direction to the petitioner to file a fresh representation highlighting his grievances along with copies of the relevant documents in support of his claim before the Director,

Economics & Statistics, Odisha, Bhubaneswar-Opposite Party No.2 within a period of two weeks from today. In the event such a representation is filed within the aforesaid period, while considering the case of the petitioner, shall take into consideration the reviewing decision taken by the said Opposite Party is without jurisdiction since the cadre does not terms of such transfer and the same shall be disposed by passing a speaking and reasoned order within a period of two months from the date of filing of fresh representation. Any decision taken on the same shall be communicated to the Petitioner within a period of two week thereafter.

8. Further it is directed that till a decision is taken on the representation of the petitioner, the transfer order dated 26th April, 2022 under Annexure-4 shall not be given effect to.

9. With the aforesaid observation/direction, the writ petition stands disposed of.

Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge