

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 13572 of 2022

Sukumar Dukhu

.... Petitioner

Mr. B.S. Tripathy, Advocate

-versus-

State of Odisha and others

.... Opposite Parties

Mr. N.K. Praharaj, AGA

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

16.11.2022

Order No.

05. 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-Opposite Parties.
3. This writ petition has been filed by the Petitioner with a prayer to quash the order dated 12.08.2020 under Annexure-9 as well as order dated 08.10.2021 under Annexure-12, so far as it relates to the Petitioner, and to restore the promotional post of the Petitioner in the rank of Deputy Ranger with further prayer to direct the Opposite Parties to promote the Petitioner to the rank of Forest Ranger from the date when his counter parts and juniors have been promoted with all financial and consequential benefits.
4. It is submitted by Mr. B.S. Tripathy, learned counsel appearing for Petitioner that the Odisha Subordinate (Method of Recruitment and Conditions of Service of Foresters) Rules, 1998 regulates the recruitment of Foresters. Accordingly, the Petitioner

faced the selection process as per the provision laid down under Rules 13 and 15 of the Odisha Subordinate (Method of Recruitment and Conditions of Service of Foresters) Rules, 1998 and on being duly selected, he was appointed as Forester on contractual basis on 10.4.2007. After his appointment, he was sent for training at SIFE, Bhubaneswar and after successful completion of training, the Petitioner was appointed as Forester on contractual basis. Thereafter, when the services of contractual foresters were not regularized, the similarly situated persons with the Petitioner had approached the Odisha Administrative Tribunal in O.A. No.3551(C) of 2011 and batch of other cases and the Tribunal vide its order dated 15.2.2012 directed the Government to regularize their service. The said order of the Tribunal was challenged before this Court in W.P.(C) No.14334 of 2012 which was dismissed by this Court vide order dated 11.9.2012. The same was further challenged before the Hon'ble Supreme Court vide Special Leave Petition (Civil) No.145 of 2013 which was also dismissed vide order dated 1.2.2013. Thereafter, pursuant to G.A. Department Resolution dated 17.9.2013, the Petitioner was regularized w.e.f. 17.9.2013. Then, a tentative gradation list was prepared consisting of 1405 foresters on 22.12.2015. However, seniority and gradation list prepared by the Department was challenged before the Tribunal and that was allowed considering the department notification after re-fixation the seniority of the employees. Vide office order dated 28.05.2018 of the Principal Chief Conservator of Forests, Odisha, the Petitioner was given promotion to the rank of Deputy Ranger and thereafter he was continuing. Thereafter, the Additional Secretary to Government, Forest & Environment Department issued a Notification dated 12.08.2020 under Annexure-9 wherein a decision was taken by the

Government of Odisha to revert the Petitioner to the post of Forester. Accordingly, the same decision was taken. The Government took a decision to challenge the decision of the Tribunal dated 12.04.2017 under Annexure-6. Pursuant to the decision of the Government, the State Government challenged the decision of the Tribunal by filing a series of writ petitions before this Court. A Division Bench of this Court dismissed the same vide order dated 16.05.2022 that was passed in a batch of writ petitions. It is further submitted that the State has not challenged the order dated 16.05.2022 passed by the Division Bench of this Court in a batch of writ petitions. While the matter stood thus, the Principal Chief Conservator of Forests issued an office order dated 8.10.2021 under Annexure-12 whereby the Petitioner was reverted back to the post of Forester from his present rank of Deputy Ranger and being aggrieved by such decision, the present writ petition has been filed.

5. Learned Additional Government Advocate appearing for the State-Opposite Parties, on the other hand, submits that pursuant to the decision of the Government under Annexure-9, the Principal Chief Conservator of Forests has taken a decision under Annexure-12 to revert the Petitioner to the post of Forester. Further, he submits that he has not received any instruction with regard to any appeal being filed before the Hon'ble Supreme Court challenging the order passed by the Division Bench of this Court on 16.5.2022 in a batch of writ petitions challenging the Tribunal's order.

6. On careful analysis of the facts placed before this Court and taking into consideration the submission made by the learned counsel for the respective parties, this Court is of the considered

view that the Petitioner was given promotion pursuant to the order passed by the Tribunal which was confirmed in appeal before this Court. However, it is not known whether the same has been challenged before the higher forum or not and it is also not known as to whether there is any interim order passed by the higher forum or not.

7. In such view of the matter, this Court is also of the considered view that the Government has acted hastily by reverting the Petitioner to the post of Forester under Annexure-12. Accordingly, the same is hereby set aside. Further, the matter is remitted back to the Opposite Party No.2-Principal Chief Conservator of Forests, Odisha, Bhubaneswar, who is the competent authority to consider the matter. It is open to the Opposite Party No.2-Principal Chief Conservator of Forests, Odisha, Bhubaneswar to pass orders in accordance with law after providing opportunity of show cause, as before reverting the Petitioner, no opportunity was provided to him. In the event, it is found that there is no other legal impediment, the order passed by the Tribunal has not been challenged further or if the same has been challenged that has been confirmed by this Court and implemented in its letter and spirit and the order promoting the Petitioner to the post of Deputy Ranger be retained, if the same has not been set aside before the higher forum.

8. With the aforesaid observation and direction, this writ petition stands disposed of.

(A.K. Mohapatra)
Judge