

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 14130 of 2022

Sujit Kumar Nayak

..... Petitioner
Mr. S.Sourav, Advocate

-versus-

State of Odisha and others

.... Opp. Parties
Mr. Ajaya Kumar Nanda,
Additional Government Advocate

CORAM:
JUSTICE K.R. MOHAPATRA

ORDER
07.06.2022

Order No.

1. This matter is taken up through Hybrid mode.
2. Petitioner in this writ petition seeks to assail the Order No.3432 dated 1st June, 2022 (Annexure-1) issued by Opposite Party No.2-Auditor General, Cooperative Societies, Odisha, Bhubaneswar, whereby he has been transferred and posted in the office of Assistant Auditor General, Cooperative Societies, Dhenkanal –Opposite Party No.4 on administrative exigencies of public service until further orders.
3. Mr. Sourav, learned counsel for the Petitioner submits that the Petitioner being a Senior Assistant belongs to the district cadre of Cooperation Department. Drawing attention of this Court to the relevant provisions of the Odisha Ministerial Services (Method of Recruitment and Conditions of Service of Junior Assistants, Senior Assistants and Section Officers in the District Offices and offices Sub-ordinate thereto) Rules, 2019 (for short, 'Rules, 2019'), he submits that Rule-2(c) defines 'Cadre' as District Cadre comprising District Offices and Sub-

ordinate offices thereto functioning under different Departments of the Government. He further draws attention to Rule-6 of the said Rules, 2019, which deals with '*Recruitment Procedure*'. Rule-6(7) provides that the Odisha Sub-ordinate Staff Selection Commission shall prepare the select list district wise from amongst the candidates belonging to the district only. The Commission shall submit a single select list to the Collector against the number of vacancies notified. The Select list shall be the base for preparation of the gradation list. Referring to the above provisions, Mr. Sourav, learned counsel submits that the Petitioner at present is continuing as Senior Assistant under Keonjhar Circle. If he is transferred to Dhenkanal Circle, his Cadre will be changed, which is in contravention of the aforesaid provisions of the Rules, 2019 and as such, he will be prejudiced. The Opposite Party No.2, without considering the same, has issued the impugned order of transfer under Annexure-1, which is contrary to the provisions of law and is not sustainable. He, therefore, prays for setting aside of the impugned order under Annexure-1.

4. Mr. Nanda, learned AGA submits that Sub-rule (9) of said Rule-6 clearly provides that once appointed in the post in a District Office, a candidate shall not be transferred outside the jurisdiction of his appointing authority, except for administrative reasons or in public interest. In the instant case, since the impugned order under Annexure-1 has been passed for administrative reason and in the public interest, the same warrants no interference. He, therefore, prays for dismissal of the writ petition.

5. Taking into consideration the rival contentions of the parties and the relevant provisions of the Rules, 2019 as well as the impugned order under Annexure-1, this Court is of the considered opinion that the order of transfer (Annexure-1) requires further consideration by the authority.

6. In view of the above, without expressing any opinion on the merit of the case of the Petitioner, the writ petition is disposed of with a direction that in the event the Petitioner makes a comprehensive representation before the Opposite Party No.2-Auditor General, Cooperative Societies, Odisha, Bhubaneswar within a period of ten days enclosing certified copy of this order, he shall do well to consider the same in accordance with law and pass a reasoned order thereon, as expeditiously as possible, preferably within a period of three weeks there from.

6.1 Till disposal of the representation, if filed within the stipulated period, as aforesaid, no coercive measure shall be taken against the Petitioner pursuant to the impugned order under Annexure-1, if not already given effect to.

Issue urgent certified copy of the order on proper application.

(K.R. Mohapatra)
Vacation Judge