

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15132 of 2022

Sharat Kumar Jena

.... ***Petitioner***
Mr. S.B. Jena, Advocate

-versus-

State of Odisha and others

.... ***Opposite Parties***
Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

21.06.2022

Order No.

W.P.(C) No.15132 of 2022 & I.A. No.8073 of 2022

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. Perused the record.
3. The present writ petition has been filed by the petitioner with the following prayers:

“Under the aforesaid facts and circumstances of the case, it is, therefore, prayed that this Hon’ble Court may graciously be pleased to issue a writ of mandamus by quashing the order of transfer vide office order no.2058 dated 23.5.2022 under Annexure-1 and order no.23271 dated 10.6.2022 under Annexure-6

And further be pleased to direct the opp.parties that the petitioner may be allowed to continue in his present place of posting

Or pass such other order/orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”

4. It is submitted by learned counsel for the petitioner that being aggrieved by order of transfer, the petitioner had earlier approached this Court by filing a writ petition bearing W.P.(C) No.13384 of 2022 this Court disposed of the same by order dated 24.05.2022 with a direction to the petitioner to move an appropriate application before the Opposite Party No.2 seeking cancellation/modification of the office order dated 23.05.2022. Accordingly, the petitioner moved an application before the Opposite Party No.2 and the Opposite Party No.2 has disposed of the representation vide order dated 10.06.2022. Thereafter, the petitioner had approached to the Secretary, Works Department, Bhubaneswar- Opposite Party No.1 by filing another representation for reconsideration of the decision taken by the Opposite Party No.2 dated 10.06.2022. It is further submitted by learned counsel for the petitioner that the same is pending before the Opposite Party No.1 and the said Opposite Party has not taken any decision as of now.

5. Further, it is submitted by learned counsel for the petitioner that the petitioner is facing several difficulties, as such, the mother of the petitioner is suffering from cancer and she is undergoing treatment and also the wife of the petitioner is serving in Keonjhar and the daughter of the petitioner is prosecuting her study in final year degree course. In such view of the matter, the petitioner prays that the petitioner be adjusted another one year at least to overcome the difficulties.

6. Learned counsel for the State, on the other hand, submits that pursuant to the direction of this Court, the Opposite Party No.1 had considered same and had passed a reasoned order and that the representation of the petitioner has been disposed by the Opposite Party No.1. Further, there is no scope for filing another representation to consider the same by the Government. Accordingly, learned counsel for the State prays for dismissal of the writ petition.

7. Considering the submissions advanced by the respective parties and upon careful consideration of the back ground of the case, this Court disposes of the writ petition directing the Secretary, Works Department, Bhubaneswar-Opposite Party No.1 to consider the representation of the petitioner dated 11.06.2022 under Annexure-7 within a period of four weeks from the date of production of certified copy of this order. It is needless to mention here that while considering the representation of the petitioner, the Opposite Party No.1 shall also take into account Government Resolution of the G.A. Department, which provides that when husband and wife both are in Government service, they should be preferably posted at one place, if there is no other impediments. Further, this Court expects the Opposite Party No.1 shall take a decision sympathetically keeping in view the difficulties of the petitioner, if possible shall try to adjust him for a further period of one year at his present place of posting.

8. It is further directed that till disposal of the representation, no coercive action shall be taken against the petitioner.

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

Urgent certified copy of this order be granted on proper application in course of the day.

(A.K. Mohapatra)
Judge