

IN THE HIGH COURT OF ORISSA AT CUTTACK**CONTC No.544 of 2008*****Golapi Pradhan***

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Petitioner***-versus-******D.V. Swami, Collector Gajapati and
another******Opposite Parties*****Advocates appeared in this case:*****For Petitioner***

:

Dr. Sujata Dash, Advocate***For Opposite Parties***

:

**Mr. P.K. Muduli
Addl. Govt. Advocate****CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK****JUDGMENT
06.05.2022****Dr. S. Muralidhar, CJ.**

1. The present contempt petition was filed way back on 15th April, 2008 alleging disobedience of the order passed by this Court on 18th April, 2007 in W.P.(C) No.13894 of 2005.

2. The background facts are that the Petitioner was working as a Cook-cum-Attendant at the Government High School, Chandragiri, Dist-Gajapati by virtue of an office order dated 2nd July, 1990 issued by the Sub-Collector, Paralakhemundi. It is

stated that the Petitioner belongs to Other Backward Class (OBC) category and she is a 'green card holder'. The Petitioner's grievance was that despite working for about 15 years, her services were not being regularized, whereas those junior to her, who had joined the service much later, had been given that benefit. When several of her representations went unheeded, the Petitioner filed W.P.(C) No.13894 of 2005 in this Court which was disposed of on 18th April, 2007 by the following order:

"Heard Dr. S. Dash, learned counsel for the Petitioner.

The Petitioner has filed this writ petition with a prayer to direct the O.P.s to regularize her service. As it appears, the petitioner was appointed in the year 1989 to work as Cook-cum-Attendant as the P.S.H. of the Department at S. Karadasingh of Rayagarh Block and thereafter, she was transferred to Government Girl's High School, Gumma at K.C. Pur, Gumma Block and again transferred to the Government High School, Chandragiri, where she is discharging her duties and drawing salary of Rs.1020/- per month since 12.9.03. Her grievance is that her services are not being regularized till to-day even though she has filed several representations dated 6.8.01, 24.4.04 and 26.4.04 before the Collector, Gajapati, O.P. 1, copies of which are annexed as Annexure-7, 8 and 10 to this writ petition.

Dr. Dash, learned counsel for the petitioner, submits that there are several posts lying vacant and if the authority concerned decides, the petitioner can be adjusted in one of such posts.

She further submits that the said representations are still pending.

However, when several representations are pending before the Collector, Gajapati, O.P.1, we dispose of this writ petition with a direction to O.P.1 to take a decision on the representations of the Petitioner after giving her an opportunity of hearing as regards her regularization in the post she is working. Let the entire exercise shall be completed within a period of three months from the date of communication of this order."

3. According to the Petitioner, her advocate informed the Collector, Gajapati (Opposite Party No.1) of the said order by the letter dated 14th May, 2007. On 21st July, 2007 Opposite Party No.1 wrote to the Petitioner asking her to attend a personal hearing on 24th July, 2007 at 3 pm at his residential office. According to the Petitioner, despite approaching the Opposite Parties on several occasions thereafter, nothing was heard. She again made a representation, which was forwarded by the Headmaster, Government Girls' High School, Chandragiri to the Government. Thereafter, the Petitioner is stated to have made a representation to the Minister for SC and ST Development Minorities and Backward Classes on 22nd February, 2008. It in the above background, the present petition has been filed.

4. On 1st December, 2016 the Additional Government Advocate submitted before this Court that the Collector has already taken a decision on the Petitioner's representation. He was then asked to file an affidavit.

5. On 9th January, 2017 a show cause affidavit was filed by Opposite Party No.1. From the said affidavit it transpired that the Collector, Gajapati had passed the following order on 21st May, 2008:

"Perused the direction of Hon'ble High Court order 18.4.07 arising out of W.P.(C) No.13894/2005 communicated by the Superintendent of High Court of Orissa in No.10354/21.5.07.

The Hon'ble High Court has been pleased to dispose of the writ petition with a direction to OP No.1 i.e. Collector, Gajapati to take a decision on the representation of the petitioner after giving her an opportunity of hearing as regards her regularization in the post she is working. The Hon'ble High Court also directed to complete the entire exercise within a period of three months from the date of communication of order.

The order of the Hon'ble High Court was received on 16.6.07. The petitioner Smt. Golapi Pradhan was requested to appear for personal hearing on 24.7.07 at 3 P.M. in the Res-Office of the Collector for consideration of representation, as regard to regularization to the post of Attendant. She appeared on the date fixed. Her case regarding regularization in the post was discussed in her presence. Since there is no vacancy of any class IV employees meant for different schools of SSD Department in the Gajapati District, accordingly her representation is not possible at present. Her representation is hereby rejected.

The petitioner may be intimated the position."

6. The above order is shown to have been signed by the Collector on 21st May, 2008. Dr. S. Dash, learned counsel appearing for the Petitioner raised several grievances against the above order. She first submitted that although from the order sheet it appears that the Petitioner appeared for personal hearing on 24th July, 2007 the Petitioner was in fact not given such an opportunity. Secondly, it is submitted that the Opposite Parties were to pass appropriate orders within three months of the order dated 18th April, 2007, and yet the aforesaid order was only signed on 21st May, 2008. No such order was in fact communicated to the Petitioner despite several representations. It is alleged that the order dated 21st May, 2008 has been manipulated "by forging the signature of the Petitioner" or it would have been issued by utilizing the signatures of the Petitioner on a blank paper, taking advantage of her vulnerable position.

7. The fact remains that what has been enclosed at Annexure-A/1 to the reply of Opposite Party No.1 is a photocopy of the order dated 21st May, 2008. Although on top it has the words 'Dt. July 20/2007', it is clear that the hearing was afforded to the Petitioner only on 24th July, 2007 and the order could have been passed only thereafter. Merely, because the words 'Dt. July 20/2007' has been typed at the top of the page even before the order begins would not mean that the said order was passed on that date. This could be a typographical mistake. With the date of the order being written in hand by the author below his signature, it is plain that the order was in fact passed on 21st May, 2008.

8. This photocopy of the order contains the signature of the Petitioner by way of acknowledgment. The Petitioner has not been able to dispute her signature on the said document. In fact it matches with the signature in the affidavit in support of the present petition. The allegation that the signature was, therefore, 'forged' cannot be accepted. Further, that the Opposite Parties may have "utilized the blank signature paper taking advantage of" the position of the Petitioner also appears to be farfetched. Opposite Party No.1 is the Collector and the other Opposite Parties are Government officials; there is no need for them to forge the signature or manipulate the documents to make it appear that the Petitioner received a copy thereof. In any event, these are highly disputed questions of fact and it is not possible for this Court to examine them in these proceedings.

9. The order dated 21st May, 2008 gives rise to a fresh cause of action. The proper course for the Petitioner to adopt would be to challenge the said order in accordance with law in appropriate proceedings. Instead, the Petitioner has chosen to persist with this contempt petition, the scope of which is limited to ensuring compliance with directions issued by this Court.

10. Merely because the decision rendered by the Collector pursuant to the order of this Court went against the Petitioner, would not mean that the Collector wilfully disobeyed the order of this Court. The Court is, therefore, not satisfied that there has been any wilful disobedience of the order passed by it. Although

there is some delay in disposal of the Petitioner's representation, the fact remains that the rejection thereof gives rise to a separate cause of action. The Petitioner was free to challenge that in separate proceedings. Consequently, no case is made out for proceeding with the present contempt petition any longer.

11. The contempt proceedings is closed and the petition is disposed of as such.

S.K.Jena/Secy.

