

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 17140 of 2022

Subhrakanti Nayak

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

05.08.2022

Order No

03.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. Samal, learned counsel for the Petitioner and Mr. A.P. Das, learned ASC appearing for the Opp. Parties.

3. The Petitioner is aggrieved by the Order dtd.02.03.2022 passed by the Collector, Bargarh-O.P. No. 2 in rejecting the prayer of the Petitioner for her reengagement pursuant to the earlier order passed by this Court on 24.11.2021 in W.P.(C) No. 35996 of 2021.

4. It is submitted that the Petitioner having the qualification of matriculation was initially appointed as a House Mother on 01.04.1987 and the said fact is reflected under Annexure-1. It is also submitted that subsequent to that the Petitioner while continuing as such, a new guideline was brought over, wherein the prescribed qualification for the said post was enhanced from matriculation to graduate. It is submitted that since the Petitioner

does not have the said qualification, he was terminated vide order dtd.24.03.2022 under Annexure-3.

5. The Petitioner challenging such order approached this Court in W.P.(C) No. 35996 of 2021 and this Court directed the O.P. No. 2 to take a decision on the same. The said Opp. Party without considering the matter in its proper perspective rejected the prayer vide the impugned order dtd.02.03.2022.

6. It is submitted that since at the time of her initial appointment the prescribed qualification was matriculation and the Petitioner with that qualification was appointed, the guideline issued subsequent to her appointment much after prescribing qualification of graduation is not a ground to disengage the Petitioner.

7. This Court when asked the learned State Counsel to obtain instruction in the matter, it is also fairly submitted that the prescribed qualification at the time of appointment of the Petitioner was matriculation and it has only been enhanced to graduation vide the guideline issued on 04.03.2015.

8. Since this Court finds that the prescribed qualification was enhanced only vide letter dtd.04.03.2015 and the Petitioner was appointed much prior to that, the said guideline cannot be taken into consideration and disengaging the Petitioner on that ground. Therefore, this Court while is inclined to quash the order dtd.02.03.2022 passed by the Collector under Annexure-6, directed the said Opp. Party to reinstate the Petitioner.

9. The said order of reinstatement shall be issued in favour of the Petitioner within a period of two (2) weeks from the date of receipt of this order. The Petitioner is directed to provide a copy of this

order before the said Opp. Party within a period of seven (7) days from the date of receipt of this order and O.P. No. 2 is directed to act on the same.

10. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha

