

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.19532 of 2022

Santosh Kumar Sahoo

....

Petitioner

Mr. B. Routray, Advocate

-versus-

State of Odisha and others

....

Opp. Parties

Mr. B. Pr. Tripathy, A.G.A.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

19.12.2022

Order No.

- 08.
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 as well as documents annexed to the writ petition.
 3. The present writ petition has been filed by the petitioner with a prayer to quash the relieve order dated 01.08.2022 under Annexure-4 passed by the Collector-cum-Chief Executive Officer, Zilla Parisad, Keonjhar and further prayer has been made to allow him to continue in his present place of posting until his date of retirement i.e. 30.06.2023.
 4. It is submitted by learned counsel for the petitioner that the petitioner was transferred by a notification under Annexure-3 issued by the Additional Secretary to Government, Panchayati Raj and D.W. Department, Bhubaneswar dated 26.07.2022.
 5. On perusal of notification under Annexure-3, it appears that a

group of persons have been transferred and the name of the petitioner finds place at Sl. No.8 with present place of posting at Jamda, Mayurbhanj to Telkoi, Kheonjhar. On modification of Notification No.10622/WR, dated 30.04.2022 the petitioner was relieved vide letter dated 26.07.2022 by the B.D.O., Telkoi, Kheonjhar and finally, vide office order dated 01.08.2022 the petitioner joined at Telkoi Block. Pursuant to joining report dated 26.07.2022, which was accepted by the B.D.O., Telkoi as Assistant Executive Engineer being relieved from Kusumi(Badampahar) Block Office.

6. It is further contended by Mr. Routray, learned senior counsel for the petitioner that the Collector-cum-C.E.O., Zilla Parishad, Keonjhar vide office order No.4691/ZP(Estt.) dated 01.08.2022 relieved the petitioner from Telkoi Block on administrative grounds and directed to report before the Government in Panchayati Raj and D.W. Department, Odisha, Bhubaneswar. The present writ petition has been filed by the petitioner challenging the order dated 01.08.2022 under Annexure-4 strictly on the ground that the Collector-cum-CEO, Zilla Parishad is not the authority to relieve the petitioner and asking to report before the Secretary to Government, Panchayati Raj and D.W. Department, Odisha, Bhubaneswar. It is further contended that thereafter, the petitioner approached the Secretary to Government, Panchayati Raj and D.W. Department, Odisha, Bhubaneswar on 02.08.2022, no decision has been taken as of now by the Opposite Party No.1.

7. Learned counsel for the State, on the other hand, submits that the Collector-cum-CEO, Zilla Parishad has passed the order on administrative ground and the petitioner has been relieved from

Telkoi Block and he has been directed to report before the Administrative Department. Therefore, learned counsel for the State defended the order dated 01.08.2022 under Annexure-4 and further submitted that the writ petition is devoid of merit and the same may be dismissed.

8. Mr. Routray, learned senior counsel appearing for the petitioner further contended that the Administrative Department, which has the authority to transfer and give posting to the petitioner as has been done under Annexure-3 i.e. notification dated 26.07.2022. Therefore, any order is supersession of the notification dated 26.07.2022 should have been passed by the concerned department of the Government. In such view of the matter, it is argued that the Collector-cum-CEO, Zilla Parishad does not have any authority and jurisdiction to pass the relieve order and to ask the petitioner to report before the concerned Department, which is absolutely illegal and arbitrary exercise of power by the said Collector-cum-C.E.O., Zilla Parishad, Keonjhar.

9. Considering the submissions made by learned counsel for the petitioner and upon perusal of the materials placed before this Court, this Court is of the considered view that the notification under Annexure-3 dated 26.07.2022 issued by the Secretary to Government, who is the competent authority to transfer and give posting to the petitioner and that the Collector-cum-CEO, Zilla Parishad is not the competent authority to relieve the petitioner as has been done vide the impugned order dated 01.08.2022 under Annexure-4. In such view of the matter, the relieve order dated 01.08.2022 under Annexure-4 is unsustainable in law and accordingly, the same is quashed and further taking into

consideration the fact that the petitioner is going to retire from service w.e.f. 30.06.2023, the petitioner is allowed to continue at present place of posting, if there is no other legal impediment.

10. With the aforesaid observation/direction, the writ petition is disposed of.

Urgent certified copy of this order be granted on proper application.

Jagabandhu

(A.K. Mohapatra)
Judge

