

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 22844 of 2016

*D.G. & I.G. of Police, Cuttack
& Anr.*

Petitioners

Mr. A.K. Mishra, AGA, Advocate

Vs.

Akhaya Kumar Nayak

Opposite Party

Mr. G.R. Sethi, Advocate

CORAM:

**DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO**

ORDER

18.04.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Mishra, learned counsel for the petitioners and Mr. G.R. Sethi, learned counsel for the opposite party.

3. The petitioners have filed this writ petition assailing the order dated 18.02.2016 passed in O.A. No.1288(C) of 2015, by which the Orissa Administrative Tribunal, Cuttack Bench, Cuttack, while quashing the order dated 10.04.2015 issued by the authority transferring/repatriating the opposite party to his parent district Cuttack, has directed the opposite party to continue in PTC, Angul granting liberty to the disciplinary authority to take resort to disciplinary action against the opposite party for his misconduct.

4. Mr. A.K. Mishra, learned counsel for the petitioners contended that the opposite party, who was working as Constable, was transferred to PTC, Angul on the basis of his representation and he completed more seven years. As such,

deputation is only allowed to a Government servant for seven years. Even though he has completed 12 years of service at PTC, Angul and after the order of repatriation was passed, he challenged the said order before the tribunal, which is not permissible under law. Therefore, the order dated 18.02.2016 passed by the tribunal in O.A. No.1288(C) of 2015 directing the petitioners to continue in PTC, Angul cannot sustain in the eye of law.

5. Mr. G.R. Sethi, learned counsel for the opposite party contended that admittedly, the opposite party had initially joined as Constable at Cuttack and thereafter, he was transferred/deputed to PTC, Angul, wherein he has already rendered service for more than 12 years. After that, his deputation was cancelled and he was repatriated to his own district Cuttack, which was challenged before the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.1288(C) of 2015. The tribunal, vide order dated 18.02.2016, permitted the opposite party to continue in PTC, Angul and granted liberty to the disciplinary authority to take action against the opposite party for his misconduct. The limited grievance of the State-petitioners is that the opposite party, having completed seven years of service in PTC, Angul, cannot be allowed to continue there any further. Therefore, his deputation was cancelled and he has repatriated to his own district Cuttack. But the opposite party challenged the order of transfer/repatriation before the tribunal by filing O.A. No. 1288 (C) of 2015 and the tribunal by order dated 18.02.2016, quashed the order of transfer/repatriation and

directed the opposite party to continue in PTC, Angul, which is illegal, arbitrary and contrary to the provisions of law. If the opposite party completed seven years of service in PTC, Angul on deputation, his continuance beyond that period is not permissible under law. Therefore, the order of transfer so passed, being within the complete domain of the authority, the same cannot be said to be illegal or arbitrary or contrary to the provision of law. Thereby, the order dated 18.02.2016 passed by the tribunal in O.A. No.1288(C) of 2015 cannot sustain in the eye of law and the same is hereby quashed. Accordingly, this Court directs the petitioners to place the opposite party in his own district Cuttack. So far as disciplinary proceeding is concerned, the opposite party has been awarded one black mark in his CCR. The same being not subject matter of consideration in this case, this Court is not inclined to observe anything in regard to the same. It is contended by learned counsel for the opposite party that during pendency of the writ petition, the petitioner has undergone training for ASI on which, this Court also does not express any opinion.

6. With the above observation, the writ petition is disposed of.

Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE