

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.20162 of 2022

Prabir Kumar Nayak

.... Petitioner

-versus-

State of Odisha & Others

.... Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
21.03.2023**

I.A No.1849 of 2023

Order No

- 04.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. This application has been filed by the petitioner for correction and modification of order dated 15.09.2022.
3. Heard Mr. T.K. Mishra, learned counsel for the petitioner.
4. Considering the averments made in the application itself, the order dated 15.09.2022 is recalled and fresh order is passed in W.P.(C) No.20162 of 2022.
5. The Interlocutory Application stands disposed of.

**(Biraja Prasanna Satapathy)
Judge**

P.T.O

W.P.(C) No.20162 of 2022

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

2. Heard Mr. T.K. Mishra, learned counsel for the Petitioner and Mr. Mishra, learned Standing Counsel for the State-Opposite Parties.

3. The Petitioner is aggrieved by the order of disengagement issued by the CDMO., Rayagada vide order dated 16.12.2013.

4. It is submitted that the Petitioner while continuing as MPHWM under the CDMO, Rayagada, Dist. Rayagada, the Petitioner because of his implication in a criminal case was disengaged by the CDMO., Rayagada without prior notice vide order dated 26.12.2013 under Annexure-5.

5. Mr. Mishra, learned counsel for the Petitioner submitted that in the meantime the Petitioner was acquitted in the said criminal case vide judgment dated 26.12.2013 passed by the learned Nyadhikari-cum-JMFC, Gram Nyalya, Kolnara, Dist. Rayagada in G.R. Case No.508/2013 under Annexure-9. It is further submitted that after his acquittal the Petitioner though approached the opposite parties time and again seeking his reinstatement, but the CDMO., Rayagada has not take any action.

6. Mr. Mishra submitted that since the Petitioner was terminated because of his implicatioin in a criminal case and he has been acquitted in the meantime, his prayer for

reinstatement needs consideration by the Opposite Parties. In support of the same, he brought to the notice of this Court, a decision reported in 2014(I) ILR, 1070. Relying on some decisions passed by the Hon'ble Apex Court, this Court in the said decision has held that after such acquittal, the employee concerned is required to be reinstated in his previous post.

7. Mr. Mishra, also brought to the notice of this Court another decision reported in 2002(Suppl.) OLR-524. In the said reported decision Hon'ble Court in Para-5 held as follows:-

"We may take that as the conviction was set aside, it has to be taken as if he was never convicted. In other words, with the order of acquittal the misconduct following his conviction no more subsists. With the order of acquittal, the misconduct based on co-called conviction stands affected. As the basis for dismissal no more exists for the reasons aforesaid, the impugned order of dismissal is liable to be quashed".

8. Mr. Mishra submitted that since the Petitioner has been acquitted in the meantime let him approach the Opposite Party No.2 for his reinstatement.

9. considering the submission made by the learned counsel for the Parties, this Court while setting aside the order dated 26.12.2013 under Annexure-5, direct the Opposite Party No.3 to take a fresh decision with regard to reinstatement of the Petitioner within a period of three months from the date of receipt of this order.

10. It is observed that while taking such a decision, the said Opposite Party No.3 shall take into consideration the decision of this Court as cited (supra)/

11. With the aforesaid observations, the Writ Petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

