

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.20213 of 2022

Jogendra Kumar Nayak *Petitioner*

Mr. Krishna Chandra Sahu, Adv.

-versus-

State of Odisha and Ors. *Opposite Parties*

Mr. D. Mund, AGA

CORAM:
DR. JUSTICE S.K. PANIGRAHI

ORDER
25.08.2022

Order
No.

01. 1. This matter is taken up through hybrid arrangement.
2. Heard.
3. The Petitioner was initially appointed as a Hindi Teacher by the Opposite Party No.2- Collector and District Magistrate, Gajapati vide Office Order No.1646 dated 30.09.2008 pursuant to a selection process and was posted at N. Jhalarsingh Girls' High School, in the district of Gajapati. While he was continuing in the said post, the Petitioner was alleged to have done mis-behaviour with the girls students staying in the hostel. Hence, R. Udayagiri P.S. Case No.48 of 2009 was registered against

him and two other staff of the school. Later, the service of the petitioner was terminated on 14.08.2009 as per the impugned order No.1275 dated 28.08.2009 passed by the Opposite Party No.2- Collector and District Magistrate, Gajapati. However, finally, the Petitioner was acquitted of the charges by the learned Special Judge, Gajapati, Parlakhemundi in S.T. No.37 of 2018 vide judgment and order dated 05.09.2009. Though the allegation was leveled against the Petitioner and two staff of the school, namely, Santosh Kumar Das and M. Raja Rao- Opposite Party Nos.4 and 5, the authority has taken action only against the Petitioner by terminating him from service. After he was acquitted of the charges in the aforesaid case, he was reinstated on 28.06.2021.

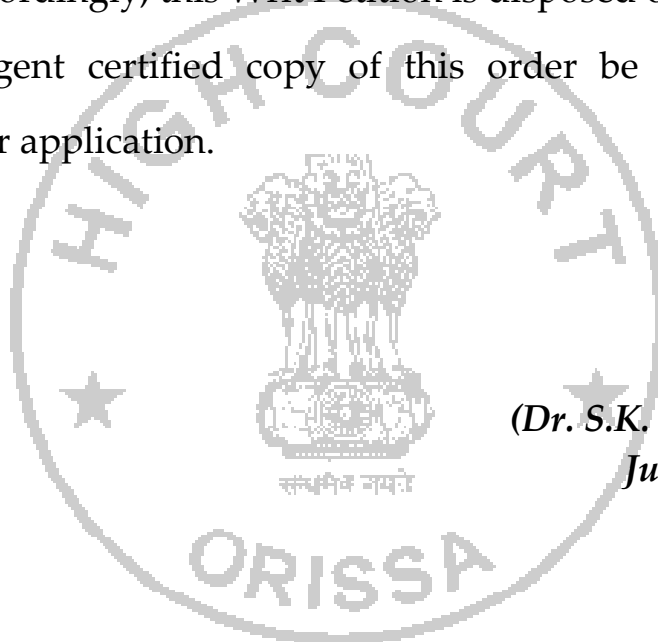
4. However, the Petitioner has missed out the length of service due to such termination. Had he not been disengaged from service, his contractual service period would be about 12 years. Since there has been a fact of fresh engagement in the present case, such period cannot be counted as continuous service in order to consider under the purview of G.A. Department Resolution No.26108 dated 17.09.2013. However, the Authority may

consider the length of service notionally since the Petitioner is not claiming any financial benefit.

5. In that view of the matter, the authority may consider the length of service of the Petitioner notionally and consider his regularisation as per law within a period of three months from the date of presentation of a copy of this order along with a copy of the Writ Petition.

6. Accordingly, this Writ Petition is disposed of.

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



(Dr. S.K. Panigrahi)
Judge

B.Jhankar