

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.22219 of 2022

Bhagyadhar Dhal

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

29.09.2022

Order No

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. Pramod Kumar Dash, learned counsel for the Petitioner and Mr. B. Panigrahi, learned ASC appearing for the Opp. Parties.
3. The present writ Petition has been filed with the following prayer:-

"It is therefore, prayed that your Lordships' be graciously pleased to admit the writ petition, issue rule nisi in the nature of writ of mandamus or in any other appropriate nature of writ (s) as deem fit and proper calling upon the Opp. Parties to show cause as to why the prayer made hereunder shall not be allowed, and if no/ insufficient cause is shown, the said rule be made absolute by issuing writ(s) in the nature of:

The impugned order dt. 18.06.2022 at Annexure-12 along with the order of disengagement temporarily dt. 25.11.2021 at Annexure-6 be quashed.

And the Opp. Party No.2 be directed to re engage the petitioner in his former post of GPTA pending finalization of the proceedings drawn up against him in the interest of justice.

And further be pleased to pass such other writ (s)/ order (s) as may deem just and proper, And for this act of kindness, the petitioner, as in, duty bound shall ever pray."

4. It is submitted that because of his implication in a Vigilance Proceeding in Bhubaneswar Vigilance P.S. Case No. 19 dtd.28.06.2019, the Petitioner while continuing as Gram Panchayat Technical Assistant (GPTA) in Astaranga Block, he was disengaged from his service vide order dtd.25.11.2021 under Annexure-6 by the Opp. Party No. 2.

5. It is submitted that the said Vigilance Proceeding in Bhubaneswar Vigilance P.S. Case No. 19 dtd.28.06.2019 was initiated against the Petitioner and two other co-employees working under the same block.

6. Mr. Dash further submitted that because of their implication in the Vigilance Proceeding the other two employees were proceeded with the Disciplinary Proceeding vide memorandum dtd.20.11.2021 under Annexure-15, but the Petitioner straight away without being given any opportunity of hearing was disengaged from his service vide order dtd.25.11.2021 under Annexure-6.

7. Mr. Dash further submitted that after disengaging him from service vide order under Annexure-6 the Petitioner was issued with a show-cause on 24.01.2022 under Annexure-8 for which the Vigilance Proceeding has been initiated against him in the aforesaid Vigilance case.

8. Even though the Petitioner submitted his reply to the said show-cause under Annexure-9 on 08.02.2022, but when no decision was taken the Petitioner approached this Court in W.P.(C). No.10319 of 2022. This Court vide its order dtd.20.05.2022 disposed of the said writ Petition with a direction on the O.P. No. 2 to take a lawful decision on the same.

9. It is submitted that pursuant to the said order the impugned order under Annexure-12 has been passed, wherein the prayer of the Petitioner for his reinstatement has been rejected by O.P. No. 2.

10. Mr. Dash, learned counsel for the Petitioner submitted that even though the Petitioner was appointed as GPTA on contractual basis vide order dtd.01.06.2011 under Annexure-2 series, the Petitioner in view of the provisions contained under the Odisha Group-C & Group-D (Recruitment and Conditions of Service) Rules, 2013 could not have been disengaged without providing him an opportunity of hearing.

11. In Rule-6 the aforesaid 2013 Rule provides that the provision of OCS (CCA) Rules, 1962 is applicable to such contractual employees. Since this Court finds that the Petitioner because of his implication has been straight away dismissed from his service though as against the other two co-accused, Disciplinary Proceeding has been initiated under Annexure-15, this Court finds that the Petitioner has been disengaged from his service in complete violation of the principle of natural justice and the provision of Rule 6 of 2013 Rule has not been followed in the case of the Petitioner.

12. In spite of opportunity being given to the learned State Counsel no instruction could be provided. But it is fairly submitted that as against the other two employees, Disciplinary Proceeding has been initiated under Annexure-16.

13. Taking into account the grounds taken in the writ Petition, this Court is inclined to quash the order of disengagement passed against the Petitioner on 25.11.2021 under Annexure-6. While quashing the same, this Court directs the O.P. No. 2 to pass

appropriate order reinstating the Petitioner in his service within a period of 15 (fifteen) days from the date of receipt of this order. However, such order of reinstatement will not disentitle the O.P. No. 2 from proceeding against the Petitioner in accordance with the provisions contained in OCS (CCA) Rules, 1962. The Petitioner is directed to produce a copy of this order before the O.P. No. 2 for compliance.

14. The writ Petition is disposed of accordingly.

Sneha



(Biraja Prasanna Satapathy)
Judge