

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 1196 of 2018

Sujit Kumar Kanungo

.....

Petitioner

Mr. L.P. Dwivedy, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. S.N. Nayak, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

15.09.2022

Order No.

01.

This matter is taken up through Hybrid Mode.

2. Heard.

3. The present writ Petition has been filed by the Petitioner challenging the order of termination dtd. 17.10.2017 vide Annexure-11 passed by the O.P. No.2.

4. It is submitted that the Petitioner was appointed as a Peon in the office of OHRC on 30.04.2004. It is further submitted that while continuing as such, the Petitioner was issued with a show cause on 12.10.2017 as to why the service of the petitioner shall not be terminated.

5. It is submitted that the Petitioner though submitted a detailed explanation, but without considering the same the order of termination was passed on 17.10.2017 under Annexure-11.

6. Learned counsel for the Petitioner submitted that since the Petitioner was appointed on contractual basis and allowed to continue as such, Odisha Group-C & Group-D post (Contractual Appointment) Rules, 2013 is applicable to his case. As provided under Rule 9(6) of the said Rules, the provision of OCS (CCA) Rules, 1962 is applicable to

such contractual employees.

7. It is submitted that without following the same and without taking any action as provided under the aforesaid OCS (CCA) Rules, 1962, the Petitioner was straight away terminated vide order dtd. 17.10.2017 under Annexure-11. Accordingly it is prayed that the said order having been passed in violation of the relevant Rules, the same is liable to be quashed by this Court.

8. Even though notice of the writ Petition has been issued since 07.05.2018, but no counter has been filed by the State-Opp. Parties. But it is submitted by learned counsel for the State that the Petitioner was issued with the show cause and after considering the same the order of termination order has been rightly passed by O.P. No. 2.

9. Heard learned counsel for the Parties. After going through the recruitment Rule i.e. Odisha Group-C & Group-D post (Contractual Appointment) Rules, 2013, this Court finds that in respect of contractual employees the provision of OCS (CCA) Rules, 1962 is applicable as per Rule 9(6) of the said Rules.

10. Since prior to passing of the impugned order, the said provisions has not been complied with, this Court while quashing the impugned order dtd. 17.10.2017 under Annexure-11, directs the O.P. No. 2 to reinstate the Petitioner within a period of 15 days from the date of receipt of this order. However, it is observed that O.P. No. 2 is at liberty to initiate necessary proceeding in terms of the provisions contained under OCS (CCA) Rules, 1962 against the Petitioner and proceed in accordance to law.

11. The writ Petition is disposed of accordingly.

(DR. B.R. SARANGI)
JUDGE

Arun