

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 212 of 2018

Abinash Mahanand

.....

Petitioner

Mr. S. Mallick, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

09.09.2022

Order No.

01

This matter is taken up through hybrid mode.

2. Heard Mr. S. Mallik, learned counsel for Petitioner and State Counsel appearing for the State-Opposite Parties.

3. The Petitioner is aggrieved by the order of disengagement issued by the authority vide order No.13353 dated 23.11.2017 under Annexure-10.

4. It is submitted that the Petitioner while continuing as Contract Teacher (TGT) in Kanapali, U.G. High School in the district of Bargarh, the Petitioner because of his implication in a criminal case was disengaged by the D.E.O. Bargarh as per instruction of Government without prior notice vide order no. 13353 dated 23.11.2017 under Annexure-10.

5. Mr. Mallik, learned counsel for the Petitioner submitted that in the meantime the Petitioner was acquitted in the said criminal case vide judgment dated 22.09.2016 passed by the learned Sessions Judge, Bargarh in C.T. Case No.155 of 2015 under Annexure-5. It is further submitted

that after his acquittal the Petitioner though approached the opposite parties time and again seeking his reinstatement, but the D.E.O., Bargarh disengaged him vide order dated 23.11.2017 under Annexure-10.

6. Mr. Mallik submitted that since the Petitioner was terminated because of his implication 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(1) ILR CTC, 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. Mallik 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. Mallik 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 23.11.2017 under Annexure-10, 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.

Issue urgent certified copy as per rules.

Ashok

(DR. B.R. SARANGI)
JUDGE

