

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAPC) No. 94 of 2018

Purusuti Jani

.....

Petitioner

Mr. S.S. Parida, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

12.10.2022

Order No.

01

This matter is taken up through hybrid mode.

2. Heard Mr. S.S. Parida, learned counsel for the Petitioner and Mr. A.K. Mishra, learned Additional Government Advocate for the State.

3. The petitioner has filed this writ petition seeking to quash the order of termination and to consider his representation for his reinstatement in service with back wages.

4. Mr. S.S. Parida, learned counsel for the Petitioner contended that the petitioner has been terminated from service vide order dated 28.11.1998 under Annexure-5, but inadvertently he has sought for quashing of Annexure-6, i.e. the order dated 22.11.2002 passed by the Orissa Administrative Tribunal in OA. No. 2302 of 1998 (Pramoda Kumar Dakua v Commissioner-cum-Secretary, Fisheries & Animal Resources Development Department and others) and batch of matters, whereby the similarly situated persons have been directed to be reinstated in service. Coming to know of the fact that similarly situated persons were directed to be reinstated in service, the petitioner has

filed the present writ petition along with an application for condonation of delay.

5. Mr. A.K. Mishra, learned Additional Government Advocate for the State contended that the petitioner is a fence sitter and, as such, the relief sought by him cannot be granted. The order of termination dated 28.11.1998 has been challenged by the petitioner in the year 2018, after long lapse of 20 years. As per the provisions of the Administrative Tribunal's Act, the application is grossly barred by limitation. For such delay though the petitioner has filed an application for condonation of delay, but in the meantime after abolition of the tribunal, the matter has been transferred to this court and has been registered as WPC (OAPC). Since the writ petition suffers from delay and laches and the petitioner is a fence sitter, the relief sought by the petitioner cannot be granted.

6. Having heard learned counsel for the parties and after going through the record, it appears that the petitioner claims for quashing of the termination order dated 28.11.1998 in Annexure-5 (though wrongly mentioned in the prayer portion as Annexure-6), but fact remains the similarly situated persons approached the tribunal in the very same year 1998 and vide order dated 22.11.2002 the order of termination was quashed by the tribunal they were directed to be reinstated, whereas the petitioner has not been given such benefit. Therefore by filing the present writ petition the petitioner seeks for quashing of the termination order passed by the authority. But fact remains the order of termination was issued on 28.11.1998 and after lapse of 20 years, the petitioner approached the tribunal by filing the Original Application. As such, as per the provisions contained in the Administrative

Tribunal's Act, there is gross delay in approaching the tribunal. Apart from the same, the petitioner is a fence sitter in view of the fact that he was watching what is happening to similarly situated persons and after disposal of the Original Application on 28.11.2002 when the applicants therein were reinstated in service, he approached the Court after long lapse of 16 years from passing of such order, by filing the Original Application. Even though the petitioner has filed an application for condonation of delay, the reasons for such gross delay has not been explained in the application itself. More so, the relief sought by the petitioner being a fence sitter cannot be admissible. Further the writ petition suffers from delay and laches.

7. Thereby on both the grounds, the writ petition merits no consideration and the same stands dismissed.

(DR. B.R. SARANGI, J.)

Arun

