

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.1328 of 2016

Braja Kishore Swain

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

17.11.2022

Order No

05.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. A. Tripathy, learned counsel for the Petitioner and Mr. YSP Babu, learned AGA appearing for the Opp. Parties.

3. The present writ Petition has been filed challenging the order of punishment passed on 22.05.2012 under Annexure-3 and confirmed by the appellate authority vide its order dtd.25.06.2015 under Annexure-6 and Revisional Order dtd.08.12.2015 under Annexure-7 and with a further direction on the Opp. Parties to reinstate the Petitioner with all financial and service benefits.

4. It is submitted that the Petitioner was dismissed from service vide order under Annexure-3 on the ground that the Petitioner was imposed with nine (9) black marks in different proceeding initiated against the Petitioner.

5. Learned counsel for the Petitioner submitted that in the order of punishment passed against the Petitioner, the order of black mark was passed along with the order of punishment of withholding of increments. It is submitted that since in terms of the said orders passed in the Proceedings in question, the increments of the

Petitioner was withheld as directed, in view of the order passed by the learned Tribunal on 18.05.2012 in O.A. No.2723(C) of 2008, the order of dismissal passed against the Petitioner on the ground that the Petitioner has been inflicted with 9 (nine) black mark cannot be held to be just and proper. The order passed by the learned Tribunal in O/A. No. 2723(C) of 2008 was also upheld by this Court while dismissing W.P.(C) No. 13624 of 2014, vide Order dt.01.03.2017 and also by the Hon'ble Apex Court on 13.09.2019 in Diary No. 23651 of 2018.

6. Mr. Tripathy, learned counsel for the Petitioner also brought to the notice of this Court the order passed by the learned Tribunal and the said order was also provided to the learned AGA. It is also fairly submitted by the learned State Counsel that the order passed by the learned Tribunal in O.A. No.2723(C) of 2008 is squarely applicable to the facts of the present case.

7. In view of such submission made by the learned counsel for the Parties, this Court is inclined to quash the order of dismissal passed against the Petitioner under Annexure-3 and the consequential order passed by the appellate authority under Annexure-6 and Revisional Order dtd.08.12.2015 under Annexure-7. While quashing the said orders, this Court directs the O.P. No. 4 to reinstate the Petitioner in his service within a period of 1 (one) month from the date of receipt of the order. Petitioner is directed to produce a copy of this order before O.P. No. 4 within a period of 7 (seven) days from the date of receipt of this order for compliance.

8. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha