

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No. 1333 of 2016

Sanjib Mohanty

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
20.12.2022**

Order No

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

2. Pursuant to the order passed by this Court on 06.12.2022, learned counsel for the Petitioner produced before this Court the salary statement of the Petitioner that he was drawing prior to his termination and salary that he was allowed to draw after his reinstatement.

3. Heard Mr. L.P. Dwivedy, learned counsel for the Petitioner and Mr. D.K. Mohanty, learned Addl. Standing Counsel appearing for the Opp. Parties.

4. Even though the present writ petition has been filed challenging the orders passed under Annexure-9, 11 & 14, but in course of hearing learned counsel for the Petitioner contended that pursuant to the order passed by the appellate authority on 01.08.2013 under Annexure-11, the Petitioner though was reinstated in his service, but in view of the said order, he was allowed to draw the minimum of the pay scale admissible to the post of Constable. It is also contended that the appellate authority while passing such an order

did not specify the period for which the punishment will remain in force and in absence of such stipulation, the Petitioner is getting the minimum of the pay scale on his reinstatement and accordingly he is suffering financially.

5. It is also contended that by the time the Petitioner was terminated from his service in the month of April 2013, he was drawing Basic Pay of Rs.9,780/- with Grade Pay of Rs.2,000/-. But after his reinstatement and taking into account the order passed under Annexure-11, the Petitioner was allowed to draw Basic Pay of Rs. 5,200/- with Grade Pay of Rs.2,000/-. It is also contended that the Petitioner is continuing as a Constable from 1st February, 1989. The Petitioner since was removed from service in a proceeding without justifiable reason, the appellate authority in consideration of that and taking a lenient view directed for reinstatement of the Petitioner. But while directing so since the appellate authority without prescribing the time period for which the Petitioner will get such minimum pay scale admissible to the post of Constable, the Petitioner is suffering since his reinstatement till date.

6. Taking into account the submissions made and the fact that the Petitioner was drawing Basic Pay of Rs.9,780/- while he was removed in the month of April, 2013, the salary allowed in his favour after his reinstatement basing on the order passed under Annexure-11, needs reconsideration by the appellate authority. Accordingly, this Court while disposing the writ petition, directs the O.P. No. 3 to reconsider the said aspect and take a lawful decision taking into account the provisions contained under Rule 82 of the Odisha Service Code.

7. It is however, expected that since the Petitioner was reinstated within five (5) months of his removal, the appellate authority shall

take a lenient view and pass appropriate order with regard to the period for which the Petitioner will be subjected to such punishment. It is also the view of this Court that the Petitioner since in the meantime has already suffered for more than 9 years and getting the minimum scale, the Opp. Party No. 3 shall pass an order which will be beneficial to the case of the Petitioner.

8. The writ petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha

