

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No. 2687 of 2016

Jeera Majhi

....

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. Heard Ms. Jyotsnarani Rath, learned counsel for the Petitioner and Mr. D.K. Mohanty, learned Addl. Standing Counsel appearing for the Opp. Parties.

3. The present writ petition has been filed challenging the order of disengagement passed by the Collector & District Magistrate, Kalahandi on 28.07.2016 under Annexure-11.

4. It is the case of the Petitioner that the Petitioner was initially engaged as a Cook-Cum-Attendant vide order dtd.31.12.2007 under Annexure-3 and she was engaged as such in Govt. (SSD) Girls' High School, Junagarh. The Petitioner while continuing as such she was transferred and posted in Kaliakundal Ashram School vide order dtd.01.07.2014 of the Collector and the Petitioner joined in the school on 04.07.2014. It is contended that after her joining in the new school the Petitioner was harassed in all manner by the Sarapanch of the concerned Gram Panchayat and was subjected to false allegations for which the Petitioner was issued with a show-

cause on 26.09.2014. Thereafter, the Petitioner when remained on leave on 14.07.2016 for one day only by submitting leave application, the Petitioner was disengaged from her service with immediate effect on the ground of non-performing her duties properly and negligence in duty vide the impugned order dtd.28.07.2016 under Annexure-11.

5. It is contended that since the Petitioner was a regular employee under the SC & ST Development Department, prior to such disengagement the Petitioner should have been issued with a show-cause and opportunity of hearing should have been given. But the Collector-O.P. No. 3 without complying the said provision straight away passed the order of disengagement. It is also contended that the post from which the Petitioner has been disengaged has not yet been filled up and lying vacant.

6. Mr. D.K. Mohanty, learned ASC on the other hand submitted that the Petitioner was earlier show-caused and there are several allegations against her. The Petitioner was also reprimanded while issuing with a show-cause on 26.09.2014 under Annexure-D. But it is fairly submitted that for her remaining on leave for one (1) day on 14.07.2016 the Petitioner was disengaged by the Collector vide the impugned order under Annexure-11.

7. Having heard learned counsel for the Parties and taking into account the materials available on record, this Court finds that the Petitioner though joined as a Cook-Cum-Attendant in the year 2007, there was no allegation against her during her continuance in the earlier school. As reflected from Annexure-R/3 to the rejoinder the Petitioner joined in the present school on 04.07.2014 and thereafter the Petitioner was issued with the show-cause on 26.09.2014 under Annexure-D. The order of disengagement has

been passed on the ground of remaining on leave for one (1) day only. The said order of disengagement has also been issued without giving opportunity of hearing to the Petitioner and without issuing a formal show-cause. Hence on the ground of non-compliance of principle of natural justice, this Court is inclined to quash the order dt.28.07.2016 under Annexure-16. While quashing the same, this Court directs O.P. No. 3 to reinstate the Petitioner in her service within a period of 15 (fifteen) days from the date of receipt of this order.

8. The writ petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha

