

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.27919 of 2022

Chaturbhuja Patra

Petitioner

....
Mr. Mohendra Ku. Mohapatra, Advocate

-versus-

State of Odisha & others

.... ***Opposite Parties***

Mr. Y.S.P. Babu, A.G.A.

**CORAM:
JUSTICE A.K. MOHAPATRA**

**ORDER
28.10.2022**

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as the learned Additional Government Advocate.
3. The present writ application has been filed with a prayer to quash the order of disengagement vide Letter No.742 dated 10.09.2022 under Annexure-2 passed by the Assistant Registrar, Co-operative Societies, Dharamgarh Circle, Dharamgarh and further prays for a direction to regularize the services of the Petitioner in the post of Peon in Khairpadar PACS from the date the Petitioner completed six years of service.
4. Learned counsel for the Petitioner submits that vide order under Annexure-1, the Deputy Registrar, Co-operative Societies engaged the Petitioner as a Peon in Khairpadar PCS Ltd. From the date of initial engagement he was discharging his duty. However on

10.09.2022 the Petitioner all on a sudden received an office order whereby the Petitioner has been disengaged from service with effect from 10.09.2022 on administrative ground on account of negligence in duty and indulgence in illegal activities.

5. A perusal of the grounds mentioned in the disengagement order, it appears that the grounds are stigmatic. Learned counsel for the Petitioner further contends that while issuing disengagement order, the Petitioner was not given any opportunity to show cause and that the principle of natural justice has not been followed while issuing the disengagement order. Therefore, the impugned disengagement order under Annexure-2 is bad in law and liable to be set aside.

6. Learned Additional Government Advocate on the other hand submits that the engagement of the Petitioner as it appears was on contingent basis with a consolidated remuneration. The Clauses in the appointment letter provides that the society is competent to take appropriate action against him under intimation to the circle ARCS/Divisional DRCS. Therefore, it is submitted by the learned counsel for the Petitioner that the ARCS, Dharamgarh circle is under no obligation to issue notice to follow the principle of natural justice. Accordingly, learned counsel for the State submits that the writ application is devoid of merit and the same is liable to be dismissed.

7. Learned counsel for the Petitioner on the other hand submits that in Clause-5 of the appointment letter provides that action can only be taken by the Society which is competent to take appropriate action. However in the present case, the order has been passed by the ARCS, Dharamgarh circle. He further submits that the DRCS being the appointing authority of the Petitioner, the ARCS has no authority

to issue the impugned order dated 10.09.2022 under Annexure-2. He further submits that the impugned order disengaging the Petitioner from service is stigmatic and also it is observed in the said order that the Petitioner has been disengaged on administrative ground. It is further observed that on account of indulgence in illegal activities, the Petitioner has been disengaged. Therefore, this Court is of the considered view that the authority should have given an opportunity to the Petitioner to explain his case and in the event of alleging negligence in duty and indulgence in illegal activities.

8. In view of the aforesaid observation and analysis of the facts of the case, this Court is of the considered view that the impugned order dated 10.09.2022 under Annexure-2 is not sustainable in law. Therefore, the same is set aside. Further, the authority-Opposite Parties are directed not to proceed against the Petitioner. In the event they want to proceed against the Petitioner, they may proceed in accordance with the terms and conditions laid down in the appointment letter dated 29.04.2016 under Annexure-1 and the authorities shall do well to provide an opportunity of hearing and opportunity to show cause before passing any order which will affect the Petitioner adversely.

9. With the aforesaid observation/direction, the writ application stands disposed of.

10. Issue urgent certified copy of this order as per Rules.

(A.K. Mohapatra)
Judge