

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.958 of 2014

Dhananjya Bissoyi

.... Petitioner

-versus-

State of Odisha & Ors.

.... Opposite Parties

**COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
02.08.2022**

Order No

02.

1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel for the Petitioner and learned counsel for the Opposite Parties.
3. The Petitioner is aggrieved by the condition indicated in the impugned order dated 02.03.2013 under Annexure-4.
4. It is submitted that the Petitioner while continuing as a Junior Clerk pursuant to the order under Annexure-1, when he was illegally reverted to the post of Peon vide order dated 18.12.2008 under Annexure-2, the same was challenged before the learned Tribunal in O.A No.3079(C) of 2008.
5. It is submitted that vide order dated 01.02.2011 under Annexure-3, learned Tribunal while quashing the order dated 18.12.2008 held as follows:-

“Hence, order at Annexure-2 being untenable is quashed. The consequential benefits of such order quashing annexure-2, such as seniority from the date of his joining a Class-III pursuant to Annexure-1, i.e. from 31.10.2008 and

counting of such service towards pension shall accrue to the applicant. However, as the applicant has not worked against the post of Junior clerk, the differential salary between the Class-IV posting he has actually considered such Class IV post of the aforesaid reversion and the Class-III post shall not accrue to the applicant in accordance with the decision of the Hon'ble Apex Court in the case of Union of India vrs. B.M.Jha, reported in (2008) 2 SCC (L&S) 399".

6. It is submitted that pursuant to the said order, the Opposite Party No.4 instead of reinstating the petitioner passed the impugned order under Annexure-4 by re-appointing the petitioner as a Junior Clerk.

7. It is submitted that in view of the order passed by the learned Tribunal, the Petitioner should have been reinstated instead of being reappointed by the said opposite party No.4. But perusal of Annexure-4 clearly shows that the past service rendered by the petitioner has been treated as pensionable service.

8. Therefore, the apprehension of the petitioner that the petitioner's past service will not taken into consideration is not a fact. However, it is observed that in view of the order passed by the learned Tribunal under Annexure-3, the impugned order be treated as an order of re-instatement in place of an order of re-appointment. It is further observed that the service benefits as due and admissible in favour of the petitioner flowing from the order be released.

9. With the aforesaid observations and directions, the Writ Petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge