

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3282 of 2015

Bijaya Kumar Nayak

....

Petitioner

Mr. B.K. Mohanty, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. P.C. Das, A.S.C.

CORAM:

JUSTICE A.K. MOHAPATRA

ORDER

23.02.2022

Order No.

02.

1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner and learned counsel for the State.
3. The present writ petition has been filed by the Petitioner with a prayer to quash the order of removal from service under Annexure-3.
4. The case of the Petitioner, in brief, is that pursuant to the advertisement issued by the State Selection Board, Odisha Police, Cuttack for recruitment of constable in Odisha Police, the Petitioner participated in the selection process and after undergoing rigorous test procedure, he was finally selected and appointed as Constable on probation by letter dated 17.04.2012. Further while the Petitioner was undergoing in service training, it is alleged that use of filthy languages and manhandled one Bhagaban Nayak, RO, LNK 256, who lodged an F.I.R. against the Petitioner along with three others before the Malkangiri Police Station on 25.05.2012. On the basis of such F.I.R., the Petitioner was arrested on 25.05.2012 and thereafter, he was released on bail on 15.06.2012 and thereafter, he had reported

to his duty on 16.06.2012.

5. When the matter stood thus, the Superintendent of Police, Malkangiri-Opposite Party No.4 without giving any opportunity of hearing issued order of removal of the Petitioner on the ground that indiscipline conduct insubordinate behavior solely based on the F.I.R. lodged in this case.

6. It is submitted by learned counsel for the Petitioner that the Petitioner has been acquitted by the trial court in Criminal Trial No.22 of 2013 (C.T. No.225 of 2013 of Sessions Judge arising out of Malkangiri P.S. Case No.67 of 2012 by the learned Chief Judicial Magistrate-cum-Asst. Sessions Judge, Malkangiri).

7. It is further submitted by learned counsel for the Petitioner that after acquittal order was passed by the learned trial court, the Petitioner approached the Inspector General of Police, South Western Range, Koraput by filing a representation dated 26.12.2013. He further submits that no action was taken on the said representation filed by the Petitioner which fact compelled the Petitioner to approach the learned Tribunal by filing the present Original Application, which was subsequently transferred to this Court. Learned counsel for the Petitioner further relied on the judgment reported in 2014(II) OLR 739 in the case of ***Maheswar Sahoo and another vrs. State of Orissa and others*** and submits that the case of the Petitioner is squarely covered by the ratio laid down by this Court in the said judgment.

8. Learned counsel for the State submits that the police force is a disciplined force and any conduct of indiscipline and insubordination by any police personnel of the police force is not tolerable and acceptable. A high degree of discipline is required from the police personnel. Considering all such aspects, the Petitioner was removed

from service. However, he further submits that in view of the judgment cited by the learned counsel for the Petitioner, he has no objection, if the Petitioner is given an opportunity to make a fresh representation before the Deputy Inspector General of Police, South Western Range, Koraput-Opposite Party No.3, which shall be considered in accordance with law within a stipulated period of time.

9. Having heard learned counsels for the parties, considering the facts and circumstances of the case, this Court instead of keeping the matter pending, which was filed in the year 2014, disposes of the writ petition with a direction to the Petitioner to file a fresh representation along with documents in support of his case as well as citations in support of his claim within a period of two weeks from today along with certified copy of this order before the Deputy Inspector General of Police, South Western Range, Koraput-Opposite Party No.3. In the event such a representation is filed by the Petitioner before the Deputy Inspector General of Police, South Western Range, Koraput-Opposite Party No.3, the same shall be considered and disposed of within a period of three months from the date of filing of fresh representation along with certified copy of this order. It is needless to mention here that the representation of the Petitioner shall be considered by passing a speaking and reasoned order on the same within the aforesaid time. The decision taken on the same shall be communicated to the Petitioner within a period of ten days thereafter.

10. With the aforesaid observation, the writ petition is disposed of.

11. Urgent certified copy of this order be granted on proper application.

