

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No. 29025 of 2022

Jagat Jiban Badaseth

.....

Petitioner

Mr. K.C. Sahu, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr. S.Jena, SC, S&ME Deptt

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

04.11.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. K.C. Sahu, learned counsel appearing for the petitioner and Mr. S. Jena, learned Standing Counsel for School & Mass Education Department.

3. The petitioner has filed this writ petition seeking to quash the rejection of the petitioner made by the opposite party no.3 on 23.08.2022 under Annexure-8, in compliance to the order dated 08.04.2022 passed by this Court in WPC (OA) No. 1986 of 2017.

4. Mr. K.C. Sahu, learned counsel for the petitioner contended that the petitioner while working as Gana Sikhyak was terminated from service owing to his involvement in the criminal case bearing G.R. Case No. 10 of 2013 corresponding to T.R. Case No. 352 of 2013 under Section 452/341/294/353/354/506/34 IPC. Accordingly he faced trial and ultimately vide judgment dated 08.08.2017 he was acquitted from the said offence. After acquittal he wants to be reinstated in service, but the same was not accepted. Therefore, he approached the Tribunal by filing O.A. No. 1986 of 2017. After abolition of the tribunal, the same was transferred to this Court and renumbered as WPC (OA) No. 1986 of 2017. The said writ petition was disposed of vide order dated 08.07.2022

by directing the opposite party no.3 to take a fresh decision with regard to reinstatement of the petitioner. While considering the representation, the order dated 23.08.2022 under Annexure-8 was passed rejecting the representation of the petitioner. In the said order, the reason was assigned that the petitioner was working in two official capacities simultaneously, i.e. Home guard under Kotagarh Police Station and Gana Sikshyak in Upper Madhuguda Primary School of Kotagarh Block, which violates the norms of the government and contradicts the affidavit sworn in by the Petitioner at the time of engagement as Gana Sikhyak. Learned counsel for the petitioner contended that a new plea has been advanced before this Court while rejecting the grievance of the petitioner in order impugned dated 23.08.2022. Therefore, he seeks for quashing of the same.

5. Mr. S. Jena, learned Standing Counsel for School & Mass Education Department contended that since the petitioner was rendering service simultaneously under two different authorities, the same is contrary to the guidelines issued by the government and also contradicts the affidavit sworn in by the Petitioner at the time of engagement as Gana Sikhyak. Apart from the same, it is contended that now Gana Sikhyak Scheme has also been abolished and, therefore, in the event this Court directs for reinstatement, since no post of Gana Sikhyak is available, the petitioner cannot be given the benefit to continue as Gana Sikhyak.

6. Having heard learned counsel for the parties and after going through the record, it appears that the petitioner was initially working as Gana Sikhyak, but while he was continuing as Gana Sikhyak, his service was terminated owing to his involvement in the criminal case. Subsequently he was acquitted by the criminal court, he made an application for reinstatement in service as Gana Sikhyak. Therefore, he

approached the Tribunal by filing O.A. No. 1986 of 2017. After abolition of the tribunal, the same was transferred to this Court and renumbered as WPC (OA) No. 1986 of 2017. After due adjudication, this Court directed the authorities to take a fresh decision on the representation of the petitioner. In compliance of the same the order dated 23.08.2022 under Annexure-8 was passed. It has been indicated in the said order that the petitioner has been called upon to explain to the report of Block Development Officer, Kotagarh & OIC, Kotagarh Police station pertaining to serving in two official capacities simultaneously, i.e. Home guard under Kotagarh Police Station as well as Gana Sikshyak in Upper Madhuguda Primary School of Kotagarh Block. The petitioner candidly admitted before the authorities that on account of financial scarcity and on account of receipt of low paid salary, he had been serving in dual posts simultaneously under State Government, i.e. Home guard under Kotagarh Police Station as well as Gana Sikshyak in Upper Madhuguda Primary School of Kotagarh Block. Since the petitioner has discharged his duty in different capacities under the State Government, it violates the norms of the Government guidelines and also contradicts the affidavit sworn in by the Petitioner at the time of engagement as Gana Sikhyak. Therefore, the question of re-engagement of the petitioner does not arise. Accordingly the authority have passed the order impugned, which does not requires any interference at this stage.

7. In view of the above, the writ petition merits no consideration and the same stands dismissed accordingly.

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(DR. B.R. SARANGI, J.)