

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 34357 of 2021

Amiya Kumar Patel

.... ***Petitioner***

Mr. R.N. Parija, Advocate

-versus-

State of Odisha and others

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

Mr. P.K. Rout, AGA

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER
13.12.2022

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard learned counsel for the Petitioner and learned Additional Government Advocate appearing for the State-Opposite Parties.
3. This writ petition has been filed by the Petitioner with a prayer to quash the impugned order dated 28.10.2021 passed by the Opposite Party No.5-Superintendent of Police, Sundargarh under Annexure-1, so far as Petitioner is concerned. Further a prayer has also been made to the effect that taking into consideration that the Petitioner was originally appointed in the Sundargarh Police District under Annexure-4 and the clarification issued by the Opposite Parties under Annexure-6, the Petitioner be retained in his original cadre, i.e., Sundargarh Police District.
4. It is submitted by the learned counsel for the Petitioner that initially the Petitioner was appointed vide order dated 22.12.2006

passed by the Opposite Party No.5-Superintendent of Police, Sundargarh under Annexure-4 showing his permanent cadre to be Sundargarh District. Thereafter, the aforesaid fact with regard to the parent cadre of the Petitioner has been reaffirmed by order dated 18.01.2018 passed by the Opposite Party No.4-A.I.G. of Police (Personnel), Odisha, Cuttack under Annexure-6 wherein it has been directed that the Petitioner along with others belong to Sundargarh District and presently continuing in Sundargarh District, since they have applied for change of their cadre to Sundargarh District. Sundargarh District being parent cadre, there is no need for change of their cadre and they are allowed to continue in Sundargarh District with their original seniority. While matter stood thus, recently the Opposite Party No.5-Superintendent of Police, Sundargarh passed an impugned order dated 28.10.2021 under Annexure-1 wherein the table given, the name of the Petitioner finds place at Serial No.9 and it has been shown that new place of posting (parent cadre) Rourkela and further perusal of impugned order dated 28.10.2021, it appears that the Petitioner and other persons were relieved from Sundargarh District on 28.10.2021 to join their parent cadre as noted against each on repatriation. Hence, they were directed to be relieved and posted at their new place of posting, i.e., their parent cadre directly under intimation to the office of Superintendent of Police, Sundargarh. On comparison of the letters under Annexure-4 and Annexure-6 with the impugned order, it appears that there exists a conflict, so far as the parent cadre of the Petitioner is concerned. The initial appointment letter and the subsequent clarification under Annexure-6 reveal that the parent cadre of the Petitioner is Sundargarh Police District. However, obvious of such fact, the Superintendent of Police, Sundargarh has

passed an order on 28.10.2021 directing the Petitioner along with others to be repatriated to their parent cadre indicating that their parent cadre is Rourkela. Accordingly, the same has been challenged by the Petitioner by filing this writ petition.

5. Learned Additional Government Advocate appearing for the State-Opposite Parties, on the other hand, submits that since there exists conflict on prima facie examination of the letters filed along with the writ petition, the Petitioner may be directed to approach the Superintendent of Police, Sundargarh to reconsider his decision in the light of the facts brought out by the Petitioner and if required, the Superintendent of Police, Sundargarh be directed to modify the order dated 28.10.2021, so far it relates to the present Petitioner.

6. Considering the aforesaid submission and on a conspectus of the factual background of the present case and upon careful examination of the documents annexed to the writ petition, this Court is of the considered view that there exists a conflict with regard to parent cadre of the Petitioner. Therefore, the same needs to be reconciled by the competent authority, i.e., Opposite Party No.5.

7. Accordingly, the writ petition is disposed of by setting aside the order dated 28.10.2021 passed by the Opposite Party No.5-Superintendent of Police, Sundargarh under Annexure-1, so far as it relates to the Petitioner. Further, the matter is relegated back to the Opposite Party No.5 to reconsider the matter by taking into consideration Annexures-4 and 6 and necessary order be passed within two weeks from the date of production of certified copy of this order. The Petitioner is directed to approach the Opposite Party No.5 within ten days from today along with certified copy of this

order. The Opposite Party No.5 shall act upon production of certified copy of this order.

8. With the aforesaid observations and directions, this writ petition is disposed of.

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

(A.K. Mohapatra)
Judge



Debasis