

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 3406 of 2012

Subrat Satpathy

....

Petitioner

Ms. B.K. Pattnaik, Advocate

-Versus -

***D.G. & I.G. of Police, Odisha and
others***

....

Opposite Parties

*Mr. H.K. Panigrahi,
Addl. Standing Counsel*

CORAM:

JUSTICE SASHIKANTA MISHRA

ORDER

09.02.2022

Order No.

11.

1. This matter is taken up through hybrid mode.
2. Heard Miss Babita Kumari Pattnaik, learned counsel for the petitioner and Mr. H.K. Panigrahi, learned Additional Standing Counsel for the State.
3. In the present application, the petitioner has challenged the order under Annexure-4, whereby, he was discharged from service with effect from 08.01.2008.
4. Bereft of unnecessary details, the facts of the case are that the petitioner was appointed as a Constable with effect from 22.12.2006 and was posted in Baragarh Police Station. On 26.03.2007, he was asked to show cause as to why he shall not be discharged from service, on the ground that he along with other Constables of Reserve Office, Baragarh was involved in a criminal case relating to Baragarh P.S. Case No. 69 dated 28.02.2007 for the alleged commission of offences under Sections 248/427/294/354/375/506/149 of IPC and Sections 3 of SC & ST

(P&A) Act. The petitioner submitted his explanation denying his involvement. However, he was discharged from service by the impugned order, the petitioner thereafter preferred an appeal before the DIG of Police Northern Range, Sambalpur (opposite party No.2) on 18.01.2008, which was disposed of vide order dated 21.10.2008 vide Annexure-6. The main ground urged by the petitioner in the appeal was that the order of discharge was passed without drawal of any disciplinary proceeding or holding any inquiry against him. The Appellate Authority held that since the petitioner was on probation, it was a case of order of discharge simpliciter and hence, rejected the appeal. The petitioner, thereafter filed a revision before the D.G. and I.G. of Police, Odisha (opposite party No.1) basically urging the same grounds, which came to be rejected vide order dated 03.07.2012. The ground of rejection was the same as taken by the Appellate Authority. The petitioner claims to have filed several representations thereafter, which have been enclosed to the writ petition under Annexure-9 series. It is submitted that the criminal case initiated against the petitioner ended in acquittal by judgment dated 15.05.2009 passed by learned Additional Sessions Judge-cum-Judge Special Court, Baragarh in C.T. Case No. 180 of 2008.

5. A counter affidavit has been filed by the opposite parties contending that the petitioner was appointed on temporary basis and was on probation and therefore, his case was appropriately dealt with as per the provision of Police Manual Rule 668. A rejoinder has been filed to the said counter, mainly contending that Rule 668 is not applicable to the petitioner. The fact of acquittal in

the criminal case has also been stated in the rejoinder.

6. The facts being as above, it is clear that neither the Appellate Authority nor the Revisional Authority took into consideration the fact that the petitioner was acquitted in the criminal case in question. It goes without saying that the very foundation of the action taken against the petitioner is the criminal case and therefore, the petitioner having been acquitted therefrom, the effect thereof, needs to be taken into account by the Appellate as well as Revisional Authority in accordance with law.

7. For the foregoing reasons therefore, this Court, without expressing any opinion on the merits of the case, disposes of the writ petition by granting liberty to the petitioner to file a fresh representation before the Revisional Authority on all factual and legal grounds as are available to him in law within a period of two weeks. If such a representation is filed, the Revisional Authority (opposite party No.1) shall dispose of the same by passing a reasoned order within a period of four weeks thereafter.

8. The Writ Petition is accordingly disposed of.

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

(Sashikanta Mishra)
Judge