

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3518 of 2014

In the matter of an application under Section 19 of the
Administrative Tribunal's Act, 1985.

.....

Manas Kumar Mallick

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

For Petitioner : M/s. B.B. Mohanty, Advocate

For Opp. Parties : M/s. N.K. Praharaj
Standing Counsel

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

सत्यमेव जयते

Date of Hearing: 11.05.2022 & Date of Order: 30.6.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. B.B. Mohanty, learned counsel for the Petitioner and Mr. N.K. Praharaj, learned counsel appearing for the State-Opp. Parties.

3. The Petitioner is aggrieved by the order of reversion passed by the Collector, Bhadrak-Opp. Party No.2 vide order dated 3.11.2014 under Annexure-7 whereby the petitioner was reverted from the post of Jr. Clerk to the post of Peon and posted to Tahasil office, Bonth in the existing vacancy. It is submitted that while the petitioner was continuing as a Peon, he was duly recommended and promoted to the post of Jr. Clerk vide order dated 19.12.2013 of the self-same Collector under Annexure-5.

4. It is submitted that subsequent to his promotion, not only the petitioner was allowed to join in his promotional post, but also his pay was fixed as against the post of Jr. Clerk vide order at Annexure-6. It is further submitted that without affording any opportunity of hearing to the petitioner and without issuing any show-cause whatsoever, the petitioner was reverted to the post of Peon vide the impugned order at Annexure-7. It is also submitted that this Court while issuing notice of the matter on 7.11.2014 was pleased to pass an interim order by staying the order of reversion so far as it relates to the petitioner. It is also submitted that pursuant to the said interim order passed on 7.11.2014, the petitioner is

continuing in his promotional post till date. Mr. Mohanty, accordingly prayed that since the impugned order under Annexure-7 has been issued in violation of the principle of natural justice and by virtue of the interim order passed by this Court, the petitioner is continuing in his promotional post, appropriate order may kindly be passed by this Court on the prayer made by the petitioner.

5. Mr. N.K. Praharaj, learned Standing counsel on the other hand made his submission relying on the stand taken in the counter affidavit. It is submitted that subsequent to the promotion of the petitioner when it was found that the petitioner has been erroneously given promotion by misinterpreting the direction of the learned Tribunal passed in OA No.3514 of 2000, the petitioner was rightly reverted to the post of a Peon and no illegality has been committed by Opp. Party No.2 in passing such an order of reversion. It is accordingly prayed by Mr. Praharaj that no interference is called for by this Court.

6. Heard learned counsel for the parties at length.

7. It is disputed that the petitioner while continuing as a Peon and basing on the recommendation of the DPC held on

7.12.2013 under Annexure-4, the petitioner was duly promoted to the post of Jr. Clerk vide order dated 19.1.2.2013 under Annexure-5. It is also not disputed that the petitioner was not only allowed to join in his promotional post, but also his pay was fixed accordingly vide order at Annexure-6. since by the time, the impugned order was passed on 3.11.2014, the petitioner had already joined in the promotional post, prior to taking any action against him, a show-cause should have been issued at least by the said Opp. Party No.2. Since no show-cause nor any opportunity of hearing was afforded to the petitioner prior to passing of the said order, on the ground of non-compliance of principle of natural justice, the impugned order is liable to be set aside. Accordingly this Court quashes the said order of reversion passed against the petitioner vide the impugned order dated 3.11.2014 under Annexure-7. However, while quashing the same and taking account the continuance of the petitioner in the said post, by virtue of interim order passed by this Court on 7.11.2014, the Opp. Party No.2 is directed to re-consider the case of the petitioner by giving him an opportunity of hearing. It is however observed that since the petitioner is continuing in the said promotional post till date , Opp. party No.2 while taking a decision shall

keep that in mind and pass appropriate order. The said exercise shall be undertaken by the Opp. Party No.2 within a period of three months from the date of receipt of this order.

8. With the aforesaid observation and direction, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 30th June, 2022/sangita

