

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 1605 of 2013

Pramod Kumar Panda

.....

Petitioner

Mr. N. Rath, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. S. Nayak, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

14.12.2022

Order No.

02.

This matter is taken up through hybrid mode.

2. Heard Mr. N. Rath, learned counsel for the petitioner and Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State- Opposite Parties.

3. The case of the petitioner is that notice of show cause was issued to him on 04.05.2013 under Annexure-8, by which the Director, R&R-cum-Ex Officio Addl. Secretary to Govt. instructed to the Collector, Baragarh, in pursuance of the clarification sought in the letter dated 25.03.2013 and on the order dated 10.04.2013 passed by the tribunal in O.A. No. 378 of 2010, to initiate disciplinary proceeding against the petitioner under Rule-10 of OCS (R.A.) Rules, 1990 read with the procedures laid down under OCS (CC&A) Rules, 1962. Consequentially, a proceeding was initiated against the petitioner under OCS (R.A.) Rules, 1990, which was challenged by the petitioner by preferring appeal before the appellate authority, i.e., R.D.C., Northern Division, Sambalpur, who disposed of the appeal by setting aside the order dated 06.04.2010 issued by the Collector, Baragarh terminating the service of the petitioner and directed the Collector, Baragarh to reinstate the petitioner in his service with immediate effect and initiate departmental proceeding, if required after reinstatement of the petitioner. In compliance of the said order, again the Collector, Baragarh issued notice of show cause on

12.07.2013 under Annexure-11 holding that as to why the service of the petitioner shall not be terminated for misconduct, as per Rule-10 of OCS (R.A.) Rules, 1990. Hence, the petitioner, by means of this writ petition, seeks to quash Annexures-8 and 11.

4. Mr. N. Rath, learned counsel for the petitioner contended that issuance of notice of show cause on 12.07.2013 under Annexure-11 cannot sustain in the eye of law, as because the petitioner has rendered service for more than four years and become a regular employee. It is contended that since he was appointed under Rehabilitation Assistance Scheme, the procedure envisaged under Rule-10 of OCS (R.A.) Rules, 1990 is not applicable to him, as has been indicated in the notice of show cause dated 12.07.2013. It is thus contended that instead of initiating proceeding under the OCS (CC&A) Rules, 1962, the same has been initiated under Rule-10 of OCS (R.A.) Rules, 1990, which itself is an outcome of non-application of mind.

5. Mr. S. Nayak, learned Addl. Standing Counsel appearing for the State-Opposite Parties contended that since the petitioner was appointed under the Rehabilitation Assistance Scheme and rendered service for more than four years and thereafter was dismissed from service, the notice of show has to be issued under the OCS (CC&A) Rules, 1962 read with Rule-10 of OCS (R.A.) Rules, 1990, as has been held by the appellate authority. Thereby, initiation of proceeding against the petitioner under Annexure-11 dated 12.07.2013 may not have any justification, as the same was not initiated under the OCS (CC&A) Rules, 1962 read with Rule-10 of OCS (R.A.) Rules, 1990.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that, which is also admitted by the parties, that the impugned notice of show cause under Annexure-

11 dated 12.07.2013 was issued by the authority under Rule-10 of OCS (R.A.) Rules, 1990 to the petitioner, who has already rendered service for more than four years under Rehabilitation Assistance Scheme. Therefore, the procedure laid down under the OCS (CC&A) Rules, 1962 should have been followed. As such, the notice of show cause dated 12.07.2013 under Annexure-11, cannot sustain in the eye of law and is liable to be quashed and is hereby quashed. The matter is remitted back to the Collector, Baragarh to issue fresh show cause notice to the petitioner under the OCS (CC&A) Rules, 1962 read with Rule-10 of OCS (R.A.) Rules, 1990.

7. The writ petition is accordingly disposed of.

Ashok

(DR. B.R. SARANGI)
JUDGE

