

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.3467 of 2014

Om Prakash Munda

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

21.10.2022

Order No

03.

1.This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. G.R. Sethi, learned counsel for the Petitioner and Mr. YSP Babu, learned AGA appearing for the Opp. Parties.

3. The present writ Petition has been filed challenging the order of punishment passed on 10.05.2007 under Annexure-6 and confirmed by the appellate authority vide its order dtd.18.05.2012 under Annexure-7 and with a further direction on the Opp. Parties to reinstate the Petitioner with all financial and service benefits.

4. It is submitted that the Petitioner was dismissed from service vide order under Annexure-6 on the ground that the Petitioner was imposed with nine (9) black marks in different proceeding initiated against the Petitioner.

5. Learned counsel for the Petitioner submitted that in the order of punishment passed against the Petitioner, the order of black mark was passed along with the order of punishment of withholding of increments. It is submitted that since in terms of the said orders passed in the Proceedings in question, the increments of the

Petitioner was withheld as directed, in view of the order passed by the learned Tribunal on 18.05.2012 in O.A. No.2723(C) of 2008, the order of dismissal passed against the Petitioner on the ground that the Petitioner has been inflicted with 9 (nine) black mark cannot be held to be just and proper.

6. Mr. Sethi, learned counsel for the Petitioner also brought to the notice of this Court the order passed by the learned Tribunal and the said order was also provided to the learned AGA. It is also fairly submitted that the order passed by the learned Tribunal in O.A. No.2723(C) of 2008 is squarely applicable to the facts of the present case.

7. In view of such submission made by the learned counsel for the Parties, this Court is inclined to quash the order of dismissal passed against the Petitioner under Annexure-6 and the consequential order passed by the appellate authority under Annexure-7. While quashing the same, this Court directs the O.P. No. 1 to reinstate the Petitioner in his service, if he has not crossed the upper age limit in the meantime.

8. It is however observed that if the Petitioner has attained the age of superannuation in the meantime, then the period of dismissal till his superannuation be regularized, but that will be on notional basis. After regularizing such period of service steps be taken to sanction the retiral benefits as due and admissible in favour of the Petitioner within a period of three (3) months from the date of receipt of this order.

9. The writ Petition is disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Sneha