

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.2862 of 2012

Satyanarayan Barik

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

23.11.2022

Order No

02.

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. D.K. Mohanty, learned Addl. Standing Counsel appearing for the Opp. Parties.

3. The Petitioner has filed the present writ petition challenging the order of discharge passed under Annexure-1 and subsequent order passed under Annexure-6, wherein his prayer for reinstatement after his acquittal in the criminal proceeding was rejected by the O.P. No. 2.

4. It is the case of the Petitioner that while continuing as a Constable, he was discharged from his service vide order under Annexure-1 on the ground that he has committed fraud while registering his name in District Employment Office, Rayagada by fabricating service certificate of another Constable C/86 Kashinath Barik, who is not related to him in any way. The Petitioner for the said action was also criminally prosecuted in G.R. Case No. 231 of 2003 / T.R. No. 37/ 2005 before the learned SDJM, Rayagada for

the office under Sec. 460/420 of the Indian Penal Code. Learned SDJM, Rayagada vide its Judgment dtd.29.10.2010 when acquitted the Petitioner from the said charges, the Petitioner seeking his reinstatement moved an application before the O.P. No. 2 under Annexure-4. But in spite of such acquittal, Petitioner's prayer for reinstatement was rejected vide order at Annexure-6. Accordingly, learned counsel for the Petitioner submitted that since the question of fraud so alleged against the Petitioner has not been found true by the competent criminal court and the judgment so passed was never challenged by the Opp. Parties in the higher forum, the Petitioner is entitled for his reinstatement.

5. Mr. Mohanty, learned Addl. Standing Counsel on the other hand submitted that the Petitioner has admitted about such fraud on his part before the competent officer and the said fact is reflected in the letter issued by the R.I. of Police, Rayagada in his letter dtd.29.04.2003 under Annexure-G to the additional counter affidavit.

6. Mr. Mohanty also relied on a decision of this Court reported in the case of ***Sudeb Suna Vs. The Presiding Officer, Labour Court, Sambalpur & Anr.*** reported in ***2016 (II) ILR –CUT- 1263***. It is submitted that since the Petitioner has suppressed material facts while being appointed as a Constable, he does not deserve any sympathy of this Court.

7. Heard learned counsel for the Parties. Perused the materials available on record. This Court after going through the same, finds that because of the alleged fraud committed with regard to registration of the name of the Petitioner in District Employment Office, Rayagada, the Petitioner was criminally prosecuted in G.R.

Case No. 231 of 2003 / T.R. No. 137 of 2005. Learned Trial Court vide Judgment dtd.29.7.2010 acquitted the Petitioner from the charges framed under Sec. 468/420 of the Indian Penal Code. The said order of acquittal passed in favour of the Petitioner was never challenged by the State. Therefore, the said order of acquittal attained finality in the eye of law. Since the competent criminal court has come to a conclusion that the Petitioner has not committed any fraud while registering his name before the District Employment Office, Rayagada, which is the ground of his discharge as referred under Annexure-1, this Court in view of such acquittal passed in favour of the Petitioner is inclined to quash the order under Annexure-1 as well as the order at Annexure-6. While quashing the said orders, this Court directs the O.P. No. 3 to take step for reinstatement of the Petitioner as a Constable within a period of two (2) months from the date of receipt of this order.

8. The writ petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha