

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3378 of 2013

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

.....

Ahuti Bhusan Naik

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner : M/s. Arup Kumar Bose.

For Opp. Parties : Standing Counsel
Mr. N.K.Praharaj.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 11.04.2022 and Date of Order: 20.04.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. A.K.Bose, learned counsel for the Petitioner and Mr. Praharaj, learned counsel for the State-Opposite Parties.
3. The Petitioner in the present Writ Petition is aggrieved by the order of removal passed by the Opposite Party No.3-Superintendent of Police, Bargarh vide order dated 23.09.2013 under Annexure-5.

4. It is submitted by Mr. Bose, learned counsel for the Petitioner that pursuant to the advertisement issued by the State Selection Board, Odisha Police under Annexure-1, the Petitioner not only made his application but also he was duly selected and appointed as a Constable in respect of Baragarh District vide order dated 26.08.2013.

5. It is further submitted that after such appointment of the Petitioner as a police constable, the Petitioner vide the impugned order dated 23.09.2013 was removed from the service on the ground that the Petitioner while making his application under Annexure-2 never submitted the information as provided under Clause-22 of the application.

6. Mr. Bose, learned counsel for the Petitioner submitted that as reflected in the impugned order dated 23.09.2013 under Annexure-5, the Petitioner was removed on the ground that he never submitted the information with regard to his implication in Padampur P.S. Case No.81 dated 25.08.2008 and in view of such non-furnishing of the information he was removed from service for furnishing false information.

7. It is submitted by the learned counsel for the Petitioner that by the time the Petitioner made his application under Annexure-2 in terms of the advertisement issued under Annexure-1, the Petitioner was already acquitted in the aforesaid Padampur P.S. Case No.81 dated 25.08.2008 vide judgment dated 31.07.2012. Since the Petitioner by the time he made his application, was already acquitted vide judgment dated 31.07.2012, he did not think it proper to provide the information as provided in

Clause-22 of the application and such non-furnishing of information was a bona fide one.

8. Learned counsel for the Petitioner accordingly submitted that the Opposite Party No.3 without considering the aforesaid facts in its proper perspective and without following the provision contained under Rules-668 (A) and 673(C) of the Police Manual, removed the Petitioner from his service vide the impugned order dated 23.09.2013.

9. Accordingly, Mr. Bose prayed for interference of this Court and to pass appropriate order in the matter.

10. Per contra Mr. Praharaj, learned counsel for the State-Opposite Parties made his submission as made in the counter affidavit. It is submitted that even though the Petitioner was already acquitted w.e.f. 31.07.2012, but he was required to submit the said information as provided in the application and because of such non-furnishing of information with regard to his implication in the case in question, he has been rightly removed from the service by the Opposite Party No.3 vide the impugned order dated 23.09.2013.

11. Accordingly, Mr. Praharaj, learned counsel for the State submitted that no illegality has been committed by the Opposite Party No.3 in removing the Petitioner because of such non-furnishing of the information by the Petitioner in his application.

12. Heard learned counsel for the Parties at length.

13. It is admitted by both the Parties that by the time, the Petitioner made his application pursuant to the

advertisement under Annexure-1, the Petitioner was already acquitted w.e.f. 31.07.2012. Therefore, non-furnishing of the information by the Petitioner regarding his implication in the case in question was neither intentional nor deliberate and the Petitioner with bona fide impression did not provide such information in his application.

14. Mr. Praharaj, learned counsel for the State in his counter affidavit though relied on the decision of the Hon'ble Apex Court reported in the case of **Commissioner of Police and Others vs. Sandeep Kumar** reported in **2011 (1) OLR (SC)-1105**, but in the said reported decision, Hon'ble Apex Court has held that non-furnishing of information with regard to involvement in a criminal case save and except in cases of serious offence like murder, dacoity or rape, lenient view should be taken. Applying the said principle and the admitted fact that the Petitioner was already acquitted w.e.f. 31.07.2012, the order of removal passed by the Opposite Party No.3 under Annexure-5 on the ground of non-furnishing of the information about his implication i.e. Padampur P.S. Case No.81 dated 25.08.2008 cannot stand legal scrutiny.

15. Accordingly, this Court deems it proper to quash the order dated 23.09.2013 under Annexure-5 and while quashing the same directs the Opposite Party No.3 to reinstate the Petitioner in his service. This Court further directs the Opposite Party No.3 to issue such order of reinstatement in favour of the Petitioner within a period of one month from the date of receipt of the order.

16. With the aforesaid observations and directions the WPC(OAC) stands disposed of. There shall be no order as to costs.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 20th of April, 2022/Subrat

