

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3516 of 2012

Dinesh Kumar Rout

.... Petitioner(s)

Mr. B.B. Mohanty,
Advocate

-versus-

D.G. of Police, Cuttack

.... Opposite Party(s)

Mr. U.K. Sahoo,
Addl. Standing Counsel

**CORAM:
JUSTICE BISWANATH RATH**

**ORDER
23.02.2022**

Order No.

01. 1. By way of this application the Petitioner has sought for the following relief :-

“ **Relief Claimed:**

Under the above circumstances, it is humbly prayed that the Original Application may be allowed;

- a) This Hon'ble Tribunal was graciously be pleased to quash the Departmental proceeding No.7/03, more particularly the enquiry report dated 31.07.2004, Order of punishment dated 26.11.2007 and Order passed in both the appellate and revisional authority dated 02.04.2009 and 31.07.2010 and exonerate the applicant completely. And
- b) Necessary direction be issued to the Respondents to consider the case of the

applicant for promotion in CSB which is going to be held in pursuance of Letter dated 25.08.2012 of State Police Headquarters with all consequential service and financial benefits.

- c) any other order / orders, as would be deemed fit and proper be issued.”

2. Challenging the impugned order Mr. Mohanty, learned counsel for Petitioner giving reference to the order of punishment dated 26.11.2007 contended that even assuming that by order dated 26.11.2007 the Petitioner has been penalized, but for the promotion involved herein taken place in the year 2012 there was requirement for consideration of maximum five (5) years back C.C.R and there was no occasion for elimination of the Petitioner from the zone of consideration taking into account the punishment imposed in the year 2007. It is, in the above circumstance, Mr. Mohanty, learned counsel for Petitioner further argued that there has been deliberate attempt to obstruct the promotion of the Petitioner.

It is, in the above circumstance, Mr. Mohanty, learned counsel for Petitioner prayed this Court for at least directing for having a review committee for considering the case of the Petitioner at par with his counter parts and depending on the outcome involving the review committee, relief, as appropriate, may be granted in favour of the Petitioner.

3. Mr. Sahoo, learned State Counsel in his opposition to the claim of the Petitioner, referring to the pleadings made in the counter affidavit submitted that undisputedly the Petitioner was suffering for an order of penalty in the disciplinary proceeding. Mr. Sahoo, learned State Counsel, however, from the rules involved herein is

unable to satisfy the Court regarding the rule obstructing the case of the case of the Petitioner for promotion in the year 2012 involving a punishment being awarded in the year 2007. Mr. Sahoo, learned State Counsel, however, on the premises of no interim order submitted that there might not be any vacancies involving promotion in the 2012 in the particular post claimed to be placed before the review committee. It is, in the above background, Mr. Sahoo, learned State Counsel objected the claim of the Petitioner and requested this Court for rejecting the application outrightly.

4. Considering the rival contentions of the parties this Court finds, undisputedly the Petitioner faced a departmental proceeding which got concluded in the year 2007 with an order of punishment i.e. one black mark in the C.C.R as a stigma being passed on 26.11.2007. It is, at this stage of the matter, this Court finds, for promotion aspect in the year 2012 and for the rule operating, there was requirement of at least 5 years back C.C.R. behind 2012. This Court here observes, punishment, if any, in the year 2007 could not have kept the Petitioner away from the zone of consideration taken place in 2012. It is, however, considering the objection of the learned State Counsel, for having a review D.P.C to consider the case of the Petitioner in the said selection will be available provided there is vacancy in the particular post in that year. This Court here finds force in the submission of Mr. Sahoo, learned State Counsel. In the process, this Court in disposal of the writ petition observes, if there is still vacancy in the post of A.S.I taken up in the recruitment process in the year 2012, the case of the Petitioner may be placed in a review C.S.B for consideration for promotion and further

depending on the outcome appropriate relief shall be granted in the matter.

5. The entire exercise shall be completed within a period of four months from the date of communication of an authenticated copy of this order by the Petitioner.

6. With the aforesaid direction the Writ Petition stands disposed of.

(Biswanath Rath)
Judge

Ayas Kanta Jena

