

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.4373 of 2012

Pramod Kumar Sarangi

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

18.10.2022

Order No

03. I.A. No.125 of 2021

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. This application has already been disposed of allowing the prayer for amendment vide order dtd.04.03.2022.
3. Therefore, I.A. be treated as disposed of.

(Biraja Prasanna Satapathy)
Judge

04. W.P.(C)(OAC) No.4373 of 2012

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. S.K. Rath, learned counsel for the Petitioner and Mr. M.K. Balabantaray, learned Standing Counsel appearing for the Opp. Parties.

3. The present writ Petition has been filed challenging the order of discharge passed by the O.P. No. 2 vide his order dtd.31.01.2000 under Annexure-2.
4. It is submitted that the Petitioner is appointed as a RT Constable in the establishment of O.P. No. 2 on 05.08.1983 and vide the impugned order passed under Annexure-2 he was discharged from his service. It is also submitted that against the order of discharge though the Petitioner preferred an appeal, but the said prayer was also rejected by the appellate Authority vide its order dtd.22.05.2012 under Annexure-5.
5. Mr. Rath, learned counsel for the Petitioner submitted that because of such order of dismissal passed against the Petitioner in the year 2000, by which time the Petitioner had already rendered more than 16 years of service, the Petitioner is suffering from both financially and mentally. Accordingly, it is submitted that on the face of such order of discharge the Petitioner is otherwise entitled to get the benefit of compassionate allowance as provided under Rule 46 of the OCS (Pension) Rules, 1992.
6. Mr. Balabantaray, learned Standing Counsel on the other hand submitted that the order of discharge was passed in the year 2000 and in the meantime the Petitioner has already attained the age of superannuation. Therefore, the Petitioner even if the prayer is allowed cannot be reinstated in his service.
7. Having heard learned counsel for the Parties and taking into account the grounds taken in the writ Petition as well as the submission made by the learned counsel for the Parties, this

Court finds that the Petitioner during pendency of the matter has attained the age of superannuation. Therefore, without interfering with the order of discharge passed against the Petitioner under Annexure-2 and confirmed under Annexure-5, this Court while disposing the writ Petition directs the Petitioner to move an application before the Opp. Party No. 2 seeking grant of compassionate allowance as provided under Rule 46 of the OCS (Pension) Rules, 1992.

8. It is observed that if any such application is filed before the said Opp. Party within a period of three (3) weeks from today, Opp. Party No. 2 shall take a decision on the same with due concurrence of the higher authority within a further period of three (3) months.
9. Since the Petitioner after completing more than 16 years of service was dismissed from his service vide the order of discharge, this Court is of the view that a lenient view shall be taken by the Opp. Parties while considering the claim of the Petitioner for such grant of compassionate allowance. The Opp. Party No. 2 shall also take into consideration the decision of the Hon'ble Apex Court reported in the case of ***Mahendra Dutta Sharma Vs. Union of India & ors. (2014) 11 SCC Page 684.***
10. The writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha