

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 227 of 2019

Rajesh Mohanty

.....

Petitioner

Mr. N. Rath, Advocate

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. S.S. Kanungo, AGA.

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

27.09.2022

Order No.

01.

This matter is taken up through hybrid mode.

2. Heard Mr. N. Rath, learned counsel appearing on behalf of Mr. U.K. Patnaik, learned counsel for the petitioner and Mr. S.S. Kanungo, learned Additional Government Advocate for the State.

3. The Petitioner has filed this Writ Petition seeking to quash the order of reversion dated 05.01.2015 issued by the Opposite Party No.2 and to allow the Petitioner to enjoy his promotional post of Havildar getting all service and financial benefits.

4. Mr. Rath, learned counsel appearing for the Petitioner contended that similar matter had come up for consideration before this Court in the case of *D. Maleswar Patra v. State of Odisha* and others, WPC (OAC) No.913 of 2017 disposed of on 06.08.2021, wherein this Court quashed the order of reversion on the ground that no opportunity of hearing was afforded in compliance of the principle of natural justice. Therefore, by applying the very same principle to the present case, the order of reversion is liable to be quashed.

5. Mr. S.S. Kanungo, learned Additional Government Advocate

contended that the contention raised that the reversion has been done without complying the principle of natural justice has no basis in view of the fact that in the year 2017, a Selection Test was held at SOG, Chandaka, Bhubaneswar for filling up of posts of Havildar (Armed) as per Govt. of Odisha Home Deptt. Resolution dated 26.12.12 in Armed Police Wing. There was vacancy of 298 posts of Havildar (Armed) against which 507 candidates were selected out of Sepoys/Constables of different Battalions. As per vacancy, 298 candidates were selected and sent for Induction Training and after successful completion of training, 298 Sepoys /Constables were promoted as Havildar (Armed) and posted to different battalions vide Office Order dated 15.12.2017. In the Office Order dated 15.12.12, the petitioner was wrongly selected as Havildar (Armed) in the CSB due to wrong entry of his date of appointment. Therefore, he has been reverted to his substantive rank i.e. Sepoy vide Office Order dated 05.01.2019 and posted as such at 4th OSAP (SS) Bn., Malkangiri in the existing vacancy, as his date of appointment is 16.12.2011 instead of 14.12.2011, which has been detected after verification of his Service Record.

6. Having heard learned counsel for the parties and after going through the records, nothing has been stated in the counter affidavit filed by the State that while passing such reversion order, the petitioner has been given opportunity of hearing. As such, there is gross non compliance of the principle of natural justice. Thereby the ratio decided by this Court in the case of **D. Maleswar Patra** (supra) is squarely applicable to the present case.

7. In view of such position, and in view of the ratio decided in the case of **D. Maleswar Patra** (supra), the order of reversion passed by the authority dated 05.01.2019 cannot sustain in the eye of law and is liable to be quashed and hereby quashed. The matter is remitted back

to the authority concerned to give an opportunity of hearing to the petitioner before taking any decision with regard to reversion of the petitioner to his former post of Sepoy.

8. The writ petition is accordingly disposed of.

Arun

(DR. B.R. SARANGI, J.)

