

IN THE HIGH COURT OF ORISSA AT CUTTACK
WPC (OAC) NO.1343 OF 2019

Prafulla Kumar Bauri

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

11.10.2022

Order No

1. 1. This matter is taken up through Hybrid Mode.

2. Heard Mr. N. Lenka, learned counsel for the petitioner and Mr. M. Balabantaray, learned Standing Counsel.

3. The present writ petition has been filed with the following prayer.

“notice may be issued to the respondents and after hearing the parties this Hon’ble Tribunal be pleased to quash the impugned order dt.7.3.2019 passed by the Collector, Rayagada vide Annexure-2 and allow the petitioner to reinstate in service and discharge his normal duties as Revenue Inspector.”

4. It is submitted that vide order under Annexure-1, the petitioner was appointed as a Revenue Inspector on contractual basis and the service condition of such appointees is governed as per the provisions contained in Odisha Group-C & Group-D posts (Contractual Appointment) Rules, 2013. It is submitted that while so continuing as a Revenue Inspector on contractual basis in terms of the order issued under Annexure-1, the

Petitioner straightaway was disengaged from his service vide the impugned order dated 7.3.2019 issued by Opp. party No.2 under Annexure-2. Learned counsel for the petitioner submitted that since the service condition of the petitioner is governed as per the Odisha Group-C & Group-D posts (Contractual Appointment) Rules, 2013, as provided under Rule 6 of the said Rules, the petitioner was due to be noticed prior to taking such action in disengaging him from his service. Mr. Lenka also relied on a decision of this Court rendered in the case of **Monalisa Behera Vs. State of Orissa and two others**, reported in **2011 (I) OLR 963**. This Court in the said order has observed as follows:-

As the order impugned has been passed on the next day of the inspection without affording an opportunity of hearing to the petitioner, we are of the opinion, even if the petitioner is not a regular employee, the principle of natural justice demands that the authority should have afforded an opportunity of hearing to the petitioner before taking action which would ultimately involve civil consequence and prejudicially affect the petitioner (see : Smt. Meneka Gandhi v. Union of India and another, AIR 1978 SC 597).

5. Making all such submission, Mr. Lenka, learned counsel for the petitioner submitted that since prior to disengaging the petitioner, the petitioner was never noticed nor any opportunity of hearing was afforded to him, the impugned order is liable to be interfered with by this Court.

6. Even though the writ petition is filed since 10.7.2019, but no counter affidavit has been filed by the State. But Mr. Balabantaray, learned Standing Counsel submitted that the petitioner, because of his involvement in a vigilance case, was disengaged vide the impugned order under Annexure-2 and no illegality has been committed by the authority concerned.

7. Heard learned counsel for the parties.

8. This Court after going through the materials available on record finds that the service condition of the petitioner is governed as per the provisions contained under the Odisha Group-C & Group-D posts (Contractual Appointment) Rules, 2013. Rule 6 of the said Rules clearly stipulates that the provisions OCS(CCA) Rules, 1962 shall be made applicable to the case of contractual employees. Since in the present case, prior to issuing the order of disengagement, the petitioner was never show-caused nor any opportunity of hearing was given, this court finds that the impugned order has been issued in complete violation of the principle of natural justice. Therefore, relying on the provision contained under Rule 6 of the 2013 Rules and the decision relied on by Mr. Lenka, learned counsel for the petitioner; this Court is inclined to quash the order of disengagement issued under Annexure-2. While quashing the same, this Court directs Opp. party No.2 to re-instate the petitioner in service within a period of one month from the date of

receipt of this order. However, it is observed that such order of re-instatement shall not preclude the opp. party no.2 from taking necessary action as provided under the provisions of OCS(CCA) Rules, 1962. 05

9. The Writ Petition is disposed of with the aforesaid observation and direction

(Biraja Prasanna Satapathy)
Judge

