

HIGH COURT OF ORISSA AT CUTTACK

W.A No.951 of 2021

(Arising out of W.P.(C) No.20421 of 2017 passed by the
Learned Single Judge on 06.02.2018)

Puspalata Sahu

.... ***Appellant***

Mr. Soubhagya Chandra Devdash, Proxy Counsel
on behalf of Mr. K. K. Swain, Advocate

-versus-

State of Odisha and Others

.... ***Respondents***

Mr. P. K. Mohanty, ASC
(for Respondent Nos.2&3)

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. SAHOO**

**ORDER
15.11.2022
(Hybrid Mode)**

Order No.

03. **1.** The present intra-court appeal has been preferred by the appellant against the order dated 6th February, 2018 passed by the learned Single Judge of this Court in W.P.(C) No.20421 of 2017.

2. The brief facts of the case are that the appellant i.e. Puspalata Sahu was contractually engaged as an Education Volunteer on 18.01.2003 by the District Inspector of Schools, Angul by the O.P. No.3 i.e. District Project Co-ordinator (DPC) under the E.G.S. and A.I.E. Scheme. However the appellant was disengaged from the

same post by order dated 03.06.2006. The relevant portion of the order is reproduced below:

“As per the inquiry report of Angul D.Is and VEC of Golabandha Mahulaburisahi EGS centre, you are not attending the centre since July 2005.

Therefore you are hereby disengaged from being E.V at Golabandha Mahulaburisahi EGS centre forthwith.”

3. In the meantime, the Government of Odisha, represented thorough its Principal Secretary to Government in School and Mass Education Department/Opposite Party No.1 (hereinafter, “the State Government”) introduced a resolution dated 16.02.2008 whereby certain educational volunteers in EGS centre were rehabilitated. Relevant portion is reproduced below:-

*“For the purpose of universalization of Elementary Education, Education Guarantee Scheme (EGS), an integral part of Sarba Sikshya Abhijan (SSA), was operationalised in Orissa from the year 2001-02. Due to up-gradation of E.G.S. Centres to regular Schools and for various reasons, the Education Volunteers engaged in such E.G.S. Centres have been disengaged and would be facing disengagement in the above process. **Government after careful consideration of the problems of the Education Volunteers under the Education Guarantee Scheme, decided to rehabilitate Education Volunteers in E.G.S. Centres who have been disengaged or facing disengagement under the Education Guarantee Scheme on the following manner.”***

4. The appellant made a representation to the O.P. No.2/Collector, Angul to consider her for rehabilitation as per the Resolution dated 16.02.2008. The O.P. No.2

vide order dated 09.08.2011 rejected the representation on the ground that the appellant had remained admittedly absent from her job since 16.06.2006 and was consequently disengaged due to dereliction of duties. Hence, as the disengagement was a punitive measure, the appellant is not qualified to be rehabilitated. The relevant portion of the Collector's Order is reproduced below:

“Xxx

Thus, it would be seen that the petitioner was not disengaged either for up-gradation of the school or any other reasons. But, she was disengaged because she was irregular in attending her duties.

In her statement also she was stated that she came to know about her termination only when another person was engaged in her place in June, 2006. She has admitted that since 16.06.2006 she had not gone to the EGS center.

Xxx

Xxx

Xxx

*As has been described above, she was disengaged because of dereliction of duties and she knew it. **Her termination of engagement was a punitive measure and not an usual disengagement. So her claim for rehabilitation as Gana Sikshyak has not merit and accordingly rejected.***”

5. Aggrieved by the order dated 09.08.2011, the appellant had preferred a Writ Petition numbered W.P.(C) No.20421 of 2017. The Writ Petition was dismissed by an order of the learned Single Judge dated 06.02.2018 due to gross delay of seven years. The relevant portion is reproduced below:-

“There is delay of seven years as this writ petition involves a challenge to the order dated 09.08.2011 at Annexure-9.

The Writ Petition stands dismissed for gross delay.”

6. This appeal has again been belatedly preferred against the learned Single Judge's order dated 06.02.2018 on the sole ground that as the appellant was ill from 16.08.2011 to 31.01.2019, her case must be entertained and be examined on merit.

7. After hearing learned counsel for the appellant at length, we find the order of the learned Single Judge to be correct.

8. This appeal has been preferred by the appellant after a delay of more than three years with no substantial reasons to explain the delay. Further, the reasons of illness, if any, should have been agitated with credible evidence before the learned Single Judge. Further, this appeal cannot be admitted on the ground of delay and laches.

9. In view of the above, the present Writ Appeal stands dismissed.

**(Jaswant Singh)
Judge**

**(M.S. Sahoo)
Judge**