

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.33309 of 2022

Gyanendra Kumar Biswal ***Petitioner***
Mr. Budhadev Routray, Sr. Advocate
-versus-

State of Odisha and others ***Opposite Parties***
Mr. T. Pattnaik, ASC

CORAM:
JUSTICE A.K. MOHAPATRA

ORDER
22.12.2022

Order No.

- 02.
1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
 2. Heard Mr. B. Routray, learned Senior Counsel appearing for the Petitioner as well as Mr. T. Pattnaik, learned Additional Standing Counsel appearing for the State-Opposite Parties. Perused the writ petition and the documents annexed thereto.
 3. The present writ petition has been filed by the Petitioner with a prayer to quash para-1 of order dated 16.08.2021 passed by the Opposite Party No.3-I.G. of Police (Personnel), Odisha, Cuttack under Annexure-2 Series and the order dated 04.11.2022 under Annexure-4 passed by the Opposite Party No.2 with a direction to Opposite Parties to absorb him in Cuttack UPD in terms of the Paragraphs-3 & 4 of the Office Order No.29725/Pers-I dated 16.08.2021 read with Police Circular No.342/2013 and thereby allow him to continue in Cuttack UPD for all purposes.
 4. It is submitted by Mr. Routray, learned Senior Counsel appearing for the Petitioner that the order dated 16.08.2021 under

Annexure-2 was the subject matter of consideration before this Court in W.P.(C) No.37621 of 2021 which was disposed of vide order dated 01.12.2021 and W.P.(C) No.561 of 2022 (Basanta Manjari Baskey v. State of Odisha and another) decided on 15.03.2022. In Basanta Manjari Baskey's case (supra), this Court after hearing the learned counsel for the parties finally quashed the Annexures-6, 8 and 9. Out of which, the order under Annexure-2 Series in the present case dated 16.8.2021 was Annexure-8 in the previous writ application which has been quashed by this Court and the authorities were directed to reconsider the matter after providing an opportunity of show cause to the Petitioner and similarly situated other persons. Thereafter, the order passed by this Court in Basanta Manjari Baskey's case has been accepted by the Opposite Parties and, accordingly, order dated 19.04.2022 under Annexure-6 was passed and repatriation of the Petitioner was allowed. Mr. Routray, however, also draws the attention of this Court to the order dated 19.04.2021 under Annexure-7 passed by the I.G. of Police (Personnel), Odisha, Cuttack which has been issued in the context of change of cadre of Constables for the year 2022. Referring to the Odisha Police Service (Method of Recruitment and Conditions of Service of Constables) Order, 2021, he submitted that applications were invited in prescribed form duly filled from the eligible Constables for consideration of their request for change of cadre for the year, 2022. It is further submitted that pursuant to order under Annexure-7, any person who had applied for change of cadre, the authorities have considered their cases vide order dated 25.05.2022 under Annexure-8 and the request for change of cadre by some of the Constables have been allowed in the meantime. In such view of the matter, Mr. Routray submits that the order of this Court in Basanta Manjari

Baskey's case has attained finality and the same has been accepted and acted upon by the Opposite Parties under Annexures-7 and 8. Therefore, it was prayed that the authorities be directed to reconsider the case of the Petitioner for change of his cadre by setting aside the impugned order under Annexure-4.

5. Learned counsel for the State, on the other hand, submits that after the order passed by this Court in Basanta Manjari Baskey's case, the order dated 16.08.2021 under Annexure-2 Series has already been revoked by the Opposite Parties-authorities. Therefore, the question of repatriation as has been provided for in the order dated 16.08.2021 under Annexure-2 Series is not permissible under law. However, learned counsel for the State does not dispute the fact that the order passed by this Court in Basanta Manjari Baskey's case has already been accepted by the Opposite Parties and it has been acted upon. He also does not dispute the order dated 19.04.2022 under Annexure-7. Therefore, it is contended by the learned Additional Standing Counsel appearing for the State-Opposite Parties that let the Petitioner approach the authorities with a fresh application in terms of Annexure-7 and in the event the Petitioner approaches the authority, the authority concerned shall consider his application in the light of the Circular dated 19.04.2022 under Annexure-7.

6. Considering the submissions made by the learned counsel for the respective parties and upon careful consideration of the materials placed before this Court, this Court is of the opinion that nothing survives for adjudication in the matter in view of Annexure-7. Therefore, the impugned order under Annexure-4 is hereby set aside. The Petitioner is directed to approach the Opposite Party No.2-D.G. & I.G. of Police, Odisha Police State Headquarters, Buxi Bazar,

Cuttack by filing a fresh representation within two weeks hence and in the event the Petitioner approaches before the Opposite Party No.2, the Opposite Party No.2 shall do well to consider the case of the Petitioner in the light of the Circular dated 19.04.2022 under Annexure-7 keeping in view the fact that the benefit under Annexure-7 has already been extended to some of the employees under Annexure-8 and shall take a decision within a period of four weeks from the date of filing of such representation before the Opposite Party No.2. The decision so taken shall be communicated to the Petitioner within two weeks thereafter.

7. With the aforesaid observation and direction, this writ petition stands disposed of.

8. Urgent certified copy of this order be granted on proper application.

