IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16514 of 2024
CNR No.ODHC010486702024

In the matter of an application under Articles 226 and 227 of the Constitution of India.

.....

Santosh Kumar Samal .... **Petitioner**

-versus-

State of Odisha and Others .... **Opposite Parties**

For Petitioner **:** Mr. K.K. Swain, Advocate

For Opp. Parties : Mr. C.K. Pradhan, AGA
Mr. B.P. Tripathy, Sr. Advocate
with Mr. N. Barik, Adv. for O.P. No.3

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing:04.11.2026 and Date of Judgment:04.11.2026

Biraja Prasanna Satapathy, J.

1. Heard Mr. K.K. Swain, learned counsel for the petitioner, Mr. C.K. Pradhan, learned Addl. Govt. Advocate for the State and Mr. B.P. Tripathy, learned

Senior Counsel along with Mr. N. Barik, learned counsel for the Opp. Party No.3.

2. The present Writ Petition has been filed *inter alia* with the following prayer:-

> *"Under the above circumstances, it is humbly prayed that the writ petition may be allowed;*
>
> *(A) a writ of mandamus or an appropriate writ may be issued quashing the impugned order No.13202 dated 18.05.2024 passed by the Commissioner-cum-Secretary to Government in Health and Family Welfare Department under Annexure:9 and the order No.496 dated13.02.2024 passed by the Chief District Medical and Public Health Officer, Dhenkanal under Annexure.7 as well as the order of termination dated 05.04.2023 under Annexure:4 and necessary direction may be made to the opposite parties to reengage / reinstate the petitioner in his former post i.e. Medical Officer, AYUSH with all consequential service and financial benefits, within a time to be stipulated by this Hon'ble Court;*
>
> *(B) And any other order/orders or direction/ directions may be issued so as to give complete relief to the petitioner."*

3. It is contended that petitioner by facing due recruitment process was appointed as a Medical Officer, AYUSH under RBSK and posted to Parjanga CHC vide order dated 25.10.2014, so issued by Opp. Party No.4 under Annexure-1. Petitioner in terms of the said order and with due execution of the

agreement with Opp. Party No.4 continued as a Medical Officer, AYUSH on contractual basis.

3.1. It is however contended that while so continuing with due renewal of the agreement all through, petitioner because of his remaining in custody for more than 48 hours for his involvement in 2(a) C.C. Case No.25 of 2023 in the file of learned JMFC, Bhuban, was terminated vide order dated 05.04.2023 of Opp. Party No.4 under Annexure-4.

3.2. Learned counsel for the petitioner contended that even though petitioner was terminated from his services because of his remaining in custody for more than 48 hours in terms of Clause-9 of the agreement but petitioner was acquitted in the criminal proceeding vide judgment dated 18.05.2023 under Annexure-5.

3.3. It is contended that even though petitioner was acquitted in the Criminal Proceeding vide judgment dated 18.05.2023 just after one and half month of

his termination but petitioner was never re-instated in his service. Accordingly, petitioner challenging order dated 05.04.2023, approached this Court by filing W.P.(C) No.11814 of 2023. This Court vide order dated 14.09.2023 under Annexure-6, when directed Opp. Party No.2 to take a fresh decision on the petitioner's claim for his re-engagement, the same was rejected by Opp. Party No.4, vide his order dated 13.02.2024 under Annexure-7.

3.4. It is contended that petitioner being aggrieved by such action of Opp. Party No.4 in rejecting his prayer for re-engagement, moved Opp. Party No.1 by making a grievance on 11.03.2024 under Annexure-8. As the same was not considered, petitioner again approached this Court by filing W.P.(C) No.4290 of 2024. Even though this Court directed Opp. Party No.1 to take a decision on the grievance made by the petitioner under Annexure-8, but Opp. Party No.1 also rejected the same vide order dated 18.05.2024 under Annexure-9.

3.5. While assailing the orders issued under Annexures-4, 7 and 9, learned counsel for the petitioner contended that since the very basis of termination of the petitioner is because of his remaining in custody for more than 48 hours in terms of Clause-9 of the agreement and petitioner was acquitted just after one and half month of his termination, petitioner should have been re-instated in his service.

3.6. However, on the face of the request made and the direction issued by this Court in W.P.(C) No.11814 of 2023, Opp. Party No.4 rejected the prayer for re-engagement vide order dated 13.02.2024 under Annexure-7. Not only that Opp. Party No.1 also being directed to take a decision on the petitioner's claim to get the benefit of re-engagement, rejected the same vide order dated 18.05.2024 under Annexure-9.

3.7. It is contended that since petitioner was terminated because of his involvement and remaining in custody for more than 48 hours, in 2(a) C.C. Case No.25 of 2023, on his acquittal vide judgment under Annexure-5 petitioner became eligible and entitled to get the benefit of re-engagement. In support of his submission, reliance was placed to the decisions of Hon'ble Apex Court in the case of ***Ram Lal Vrs. State of Rajasthan and Ors***. (Civil Appeal No.7935 of 2023) so followed in the case of ***Maharana Pratap Singh Vs. The State of Bihar and Others*** (Civil Appeal No.5497 of 2025) and the recent decision of this Court in the case of ***State of Odisha and Others Vs. Bashidhar Bariki*** (W.A. NO.589 of 2025). Hon'ble Apex Court in Para-13, 25 and 30 of the decision in the case of ***Ramlal*** has held as follows:-

> *"13. However, if the charges in the departmental enquiry and the criminal court are identical or similar, and if the evidence, witnesses and circumstances are one and the same, then the matter acquires a different dimension. If the court in judicial review concludes that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge, the Court in judicial review can grant redress in certain circumstances. The court will be*

entitled to exercise its discretion and grant relief, if it concludes that allowing the findings in the disciplinary proceedings to stand will be unjust, unfair and oppressive. Each case will turn on its own facts. [See G.M. Tank vs. State of Gujarat & Others, (2006) 5 SCC 446, State Bank of Hyderabad vs. P. Kata Rao, (2008) 15 SCC 657 and S. Samuthiram (supra)]

25. Expressions like "benefit of doubt" and "honorably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology.

30. In view of the above, we declare that the order of termination dated 31.03.2004; the order of the Appellate Authority dated 08.10.2004; the orders dated 29.03.2008 and 25.06.2008 refusing to reconsider and review the penalty respectively, are all illegal and untenable."

3.8. Hon'ble Apex Court in Para-47 & 50 of the decision in the case of ***Maharana Pratap Singh*** has held as follows:-

"*47. While an acquittal in a criminal case does not automatically entitle the accused to have an order of setting aside of his dismissal from public service following disciplinary proceedings, it is well-established that when the charges, evidence, witnesses, and circumstances in both the departmental inquiry and the criminal proceedings are identical or substantially similar, the situation assumes a different context. In such cases, upholding the findings in the disciplinary proceedings would be unjust, unfair, and oppressive. This is a position settled by the decision in G. M. Tank (supra), since reinforced by a decision of recent origin in Ram Lal v. State of Rajasthan31.*

50. The judgment acquitting the appellant reveals that the prosecution "miserably failed to prove its case beyond reasonable doubt" as both the informant and PW-2 refused to identify the appellant in court. This discussion confirms that the appellant's acquittal was based not on mere technicalities. In Ram Lal (supra), this Court held that terms like "benefit of doubt" or "honourably acquitted" should not be treated as

formalities. The Court's duty is to focus on the substance of the judgment, rather than the terminology used."

3.9. This Court in Para-20 of the decision in the case of ***Banshidhar Bariki*** has held as follows:-

> ***"20.*** *To substantiate the aforementioned charge, the inquiry officer, as has been stated above has examined the same set of witnesses, whose version has been clearly discarded by a judicial finding by the Court of Addl. Sessions Judge. The important aspect of this matter is the plea of alibi taken by the respondent, which has been established by him by cogent evidence and believed by the*
> *trial court. If the plea of alibi is believed by the trial Court in the judgment dated 26.11.2018, which has attained the finality, the entire genesis of the case is washed away on facts. Therefore, it could be safely inferred that departmental proceedings and their conclusion are based on "no evidence". The learned Single Judge has rightly relied upon numerous judgments to un-justify the departmental action taken against the respondent. It is no gain saying that the judgment relied upon by the learned Single Judge is apt in the fact scenario of the present case. The eventual conclusion drawn by the learned Single Judge, setting aside the departmental action against the respondent cannot be faulted with on law as well as facts. Therefore, this is clearly not a case for interference by this Court".*

4. Learned Addl. Govt. Advocate on the other hand while supporting the impugned order of termination issued in favour of the petitioner under Annexure-4 so confirmed vide order under Annexures-7 and 9, contended that since petitioner on being appointed vide order dated 25.10.2014 under Annexure-1, was allowed to continue in terms of the agreement executed in between the petitioner and Opp. Party

No.4 and as per Clause-9 of the said agreement, petitioner remained in custody for more than 48 hours, petitioner was terminated vide order dated 05.04.2023 of Opp. Party No.4. Clause-9 of the agreement reads as follows:-

> *"9. xxxxx Further, the contractual services of the Second Party from the OSH&FW Society shall be terminated at any point of time if the Second Party is detained in custody whether on a criminal charge or otherwise for a period exceeding forty-eight(48) hours, with effect from the date of such detention by an order of the concerned appointing authority."*

4.1. It is contended that even though petitioner was acquitted in the Criminal Proceeding vide judgment dated 18.05.2023 under Annexure-5, but pursuant to the order passed by this Court on different occasion, claim of the petitioner to get the benefit of re-engagement was initially rejected by Opp. Party No.4 vide order dated 13.02.2024 under Annexure-7 and by Opp. Party No.1 vide order dated 18.05.2024 under Annexure-9.

4.2. It is accordingly contended that since petitioner admittedly was terminated in terms of Clause-9 of

the agreement for his remaining in custody for more than 48 hours, even though he was acquitted in the Criminal Proceeding vide judgment dated 18.05.2023 under Annexure-5, that if so facto does not give a right in favour of the petitioner to get the benefit of re-engagement.

4.3. It is accordingly contended that no illegality or irregularity can be found with the impugned order of termination passed under Annexure-4, further confirmed by Opp. Party No.4 vide his order under Annexure-7 and by Opp. Party No.1 vide his order under Annexure-9.

5. Learned Senior Counsel appearing for Opp. Party No.3 on the other hand contended that since petitioner was appointed under the aegis of National Health Mission and as per the terms of the agreement, a contractual employee is liable for termination on his remaining in custody for more than 48 hours, no illegality or irregularity can be

found with the impugned order of termination passed by Opp. Party No.4, as petitioner admittedly remained in custody for more than 48 hours, because of his implication in 2(a) C.C. Case No.25 of 2023.

5.1. It is also contended that since after his termination, there is no renewal of agreement, petitioner is not eligible to get the benefit of re-engagement.

6. Having heard learned counsel for the parties and considering the submission made, it is found that petitioner was appointed as a contractual Medical Officer, AYUSH and posted to Parjanga CHC vide order dated 25.10.2024 under Annexure-1 so issued by Opp. Party No.4. It is found that while so continuing with due renewal of the agreement, petitioner because of his involvement and remaining in custody for more than 48 hours in 2(a) C.C. Case No.25 of 2023, was terminated vide order dated

05.04.2023 of Opp. Party No.4. Petitioner was so terminated in terms of the provision contained under Clause-9 of the agreement.

6.1. However, it is found just within one and half month of his termination, petitioner was acquitted by the Criminal Court vide judgment dated 18.05.2023 under Annexure-5. Even though petitioner was acquitted just after one and half month of his termination, but when he was not re-engaged, he approached this Court by filing W.P.(C) No.11814 of 2023.

6.2. This Court vide its judgment dated 14.09.2023 under Annexure-6, when directed Opp. Party No.4 to take a decision, taking into account the fact that petitioner has been acquitted in the criminal proceeding, but the same was rejected by Opp. Party No.4 vide his order dated 13.02.2024 under Annexure-7.

6.3. Petitioner challenging such action of Opp. Party No.4, moved the Govt.-O.P. No.1 by making a grievance on 11.03.2024 under Annexure-8 and when the same was not considered, petitioner again approached this Court by filing W.P.(C) No.4290 of 2024. This Court when directed for its consideration, Opp. Party No.1 rejected the same vide order dated 18.05.2024 under Annexure-9.

6.4. It is the view of this Court that since petitioner was terminated because of his remaining in custody for more than 48 hours in the Criminal Case and he was acquitted just within one and half month of his termination he should have been re-engaged with due renewal of the agreement. Placing reliance on the decisions of the Hon'ble Apex Court in the case of ***Ram Lal*** so followed in the case of ***Maharana Pratap Singh*** and the recent decision of this Court in the case of ***Banshidhar Bariki*** so cited (supra), this Court is of the view that petitioner is eligible and entitled to get the benefit of re-engagement.

6.5. Accordingly, this Court while quashing the orders issued under Annexures-4, 7 and 9, directs Opp. Party Nos.1 and 4 to allow the petitioner to continue in terms of the order issued under Annexure-1 with due renewal of the agreement, if any. This Court directs Opp. Party Nos.1 and 4 to complete the entire exercise within a period of 2(two) months from the date of receipt of this order.

7. The Writ Petition stands disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 4th November, 2026/Basudev

Signature Not Verified
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Reason: Authentication
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