



IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.8224 of 2025

Sumanta Kumar Sahu

.....

Petitioner

Represented By Adv. -
Jagajiban Pradhan, Mr.
S.K. Mishra, Sr. Adv.

-versus-

State Of Odisha and others

.....

Opposite Parties

Mr. A. Pati, ASC

CORAM:

**THE HON'BLE MR. JUSTICE ADITYA KUMAR
MOHAPATRA**

ORDER

24.03.2025

Order No.

01. 1. This matter is taken up through Hybrid mode.
2. Heard Mr. S.K. Mishra, learned senior counsel for the
Petitioner as well as learned counsel for the State-Opposite Parties.
Perused the writ application as well as the documents annexed
thereto.
3. The Petitioner has filed the present writ application with the
following prayer:

*“It is, therefore prayed that this Hon'ble Court
may graciously be pleased to admit this writ
application, issue notice to the Opposite Parties,
call for the relevant records and after hearing
the counsel for the parties, the order
dt.02.07.2021 under Annexure-6 be quashed and*



the opposite Parties be directed to consider the case of the petitioner for reinstatement in his previous post of Home Guard with all service benefits within a time bound period;

And further be pleased to pass such other order/orders as this Hon'ble Court deems just, equitable and proper in the facts and circumstances of the present case;”

4. It is stated by Mr. Mishra, learned senior counsel appearing for the Petitioner that the Petitioner was initially appointed as a Home Guard in Mayurbhanj District vide D.O. No.3 on 10.02.2011. While working as such, the Petitioner got entangled in a criminal case initiated at the instance of his wife for commission of an offence punishable under Sections 498-A, 506, 307 of IPC read with Section 4 D.P. Act bearing Betnoti P.S. Case No.23 of 2017, as a result of which, the Petitioner was disengaged from service vide D.O. No.7 dated 08.08.2017. Thereafter, the Petitioner faced a trial and he was acquitted by the learned Court of Asst. Sessions Judge, Baripada in Sessions Trial Case No.147 of 2018 vide judgment dated 09.02.2019. Learned senior counsel appearing for the Petitioner at this juncture contended that now the Petitioner and his wife are staying together and leading a peaceful conjugal life.

5. Mr. Mishra, learned senior counsel further contended that after acquittal in the criminal trial, the Petitioner approached the Opposite Party No.3 by filing a representation on 29.03.2019 with a prayer to reinstate him in service after acquittal in the above noted criminal case. The Deputy Commandant vide his order dated 07.06.2019 set aside the discharge order vide D.O. No.7 dated 08.08.2017, however,



liberty is granted to initiate a fresh proceeding against the Petitioner as per the established procedure under Section 8 of the Home Guards Act, 1961. Being aggrieved by such order, the Petitioner approached this Court by filing W.P.(C) No.12556 of 2021. A Coordinate Bench vide order dated 20.04.2021 disposed of the above noted writ petition by taking into consideration the fact that the Petitioner has already been acquitted in the criminal case which was the only ground of his dismissal and directed the Opposite Parties to consider the case of the Petitioner by allowing him to discharge his duty as Home Guard if there is no other legal impediment to the same. Thereafter, the Petitioner approached the Opposite Party No.3 along with a copy of the aforesaid order.

6. The Opposite Party No.3 vide his order under Annexure-6 to the writ petition disposed of the grievance of the Petitioner by holding that since the Government of Odisha in the Home Department vide his Letter No.8852/D.C.A. dated 22.02.2020 and Letter No.24884/D & A dated 23.07.2020, have directed to stop recruitment and abolished existing vacancies in the rank of Home Guard, the case of the Petitioner was no more available to be considered for reinstatement in service and with the aforesaid observation, the Opposite Party No.3 has rejected the case of the Petitioner.

7. Learned counsel for the Petitioner further contended that in the meantime the ban order that was imposed by the Home Department, Government of Odisha in the year 2020 has already been lifted and that steps have been taken for recruitment of the Home Guards by issuing a fresh advertisement. In such view of the matter, learned



senior counsel for the Petitioner contended that the case of the Petitioner be reconsidered for his reinstatement in service as he has been illegally disengaged from service. He further contended that in the meantime the Petitioner has already been acquitted in the criminal case which was instituted at the instance of his wife for commission of an offence under Section 498-A of the IPC. He further contended that on 10.10.2024 the Petitioner has already approached the Commandant, Home Guard, Mayurbhanj-Opposite Party No.3 by filing a detailed representation under Annexure-8 to the writ petition, however, no decision has been taken on the same.

8. Learned counsel for the State on the other hand contended that since the Petitioner has already approached the Opposite Party No.3, as is evident from the document under Annexure-8 to the writ petition and in the event any such representation is still pending, he will have no objection in the event this Court directs the Opposite Party No.3 to take a lawful decision on such representation of the Petitioner in accordance with law within a stipulated period of time.

9. Having heard the learned counsels appearing for the respective parties, on a careful analysis of their submission and on a close scrutiny of the document annexed to the writ petition, further keeping in view the facts of the present case as well as the direction of the Coordinate Bench in the previous writ petition under Annexure-5 to the writ petition, this Court deems it proper to dispose of the writ petition at the stage of admission by directing the Opposite Parties to consider the case of the Petitioner for his reinstatement of in service, keeping in view order dated 20.04.2021 passed in W.P.(C) No.12556 of 2021 within a period of two months from the date of



communication of a certified copy of today's order. Further, it is made clear that since admittedly the ban order for appointment of Home Guards has already been lifted by the State-Opposite Parties and in the meantime fresh recruitment is taking place, the case of the Petitioner be considered against any available vacancy before filling up the same under the advertisement. Let the aforesaid exercise be carried out within the time stipulated hereinabove.

10. With the aforesaid observations/directions, the writ application stands disposed of.

Issue urgent certified copy of this order as per Rules.

(Aditya Kumar Mohapatra)
Judge

S.K. Rout

Signature Not Verified

Digitally Signed
Signed by: SANTANU KUMAR ROUT
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 25-Mar-2025 10:30:35