

(2025) 09 OHC CK 1028

In the Orissa High Court

Case No : Writ Petition (C) No. 27964 Of 2024

Hemanta Kumar Bhoi

APPELLANT

Vs

State Of Odisha & Others

RESPONDENT

Date of Decision : 18-09-2025

Acts Referred:

Orissa Civil Services (Classification, Control And Appeal) Rules, 1962 — Rule 8, 18(I)
Prevention Of Corruption Act, 1988 — Section 13(1)(b), 13(1)(d), 13(2)
Indian Penal Code, 1860 — Section 34, 473A, 477A
Code Of Criminal Procedure, 1973 — Section 428

Citation : (2025) 09 OHC CK 1028

Hon'ble Judges : Biraja Prasanna Satapathy, J

Bench : Single Bench

Advocate : B.K. Pattanaik, C.K. Pradhan

Final Decision : Disposed Of

Judgement

Biraja Prasanna Satapathy, J

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel appearing for the Parties.
3. The present Writ Petition has been filed inter alia challenging order passed on 30.06.2015 under Annexure-5 and further order passed on 22.04.2024 under Annexure-9 as well as order dtd.28.08.2024 under Annexure-12.
4. It is contended that because of his conviction and sentence in S.T. Case No.44/19 of 2014 by the learned Addl. Sessions Judge, Nayagarh on 29.05.2015, Petitioner was dismissed from his services vide order dtd.30.06.2015 under Annexure-5.
- 4.I. It is however contended that challenging such order of conviction and sentence, Petitioner approached this Court by filing Criminal Appeal No.318 of 2015. This Court vide judgment dtd.19.10.2023 under Annexure-6, while

allowing the appeal set aside the order of conviction and sentence passed on 29.05.2015.

4.2. After being acquitted from the order of conviction and sentence, Petitioner moved an application under Annexure-7, with a prayer to reinstate him in his services. However, such prayer when was not considered, Petitioner approached this Court by filing W.P.(C) No.41250 of 2023. This Court vide order dtd.21.12.2023 under Annexure-8 directed Opposite Party No.4 to take a decision on the Petitioner's claim to get the benefit of reinstatement. However, vide order dtd.22.04.2024 under Annexure-9, prayer of the Petitioner to get the benefit of reinstatement was rejected by Opposite Party No.4. Challenging such order, Petitioner though moved the appellate authority, but the appellate authority vide order dtd.28.08.2024 under Annexure-12 rejected the prayer on the face of the order passed by this Court on 21.08.2024 in W.P.(C) No.20043 of 2024.

4.3. It is contended that this Court in its order under Annexure-11, directed the Appellate Authority to take into consideration of the decision of the Hon'ble Apex Court in the case of Ram Lal Vrs. State of Rajasthan and Ors. (Civil Appeal No.7935 of 2023). 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)]

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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."

4.4. It is however contended that without proper appreciation of this Court's order dtd.21.08.2024 and the view expressed by the Hon'ble Apex Court in the

case of Ramlal as cited (supra), Opposite Party No.3 rejected the prayer for reinstatement vide order dtd.28.08.2024 under Annexure-12.

4.5. Learned counsel appearing for the Petitioner contended that since Petitioner because of his conviction and sentence was dismissed from his services vide order dtd.30.06.2015 under Annexure-5, after his acquittal vide judgment dtd.19.10.2023 under Annexure-6, in view of the decision of the Hon'ble Apex Court in the case of Ramlal so followed in the case of Haharana Pratap Singh, Petitioner is eligible and entitled to get the benefit of reinstatement.

4.6 Hon'ble Apex Court in Para-47 & 50 of the decision in the case of Haharana 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."

5. Mr. C.K. Pradhan, learned Addl. Government Advocate for the State made his submission basing on the stand taken in the counter affidavit. It is contended that because of his conviction and sentence vide judgment dtd.29.05.2015, Petitioner was dismissed from his services vide order dtd.30.06.2015 under Annexure-5.

5.1. Even though Petitioner was acquitted vide judgment dtd.19.10.2023 of this Court under Annexure-6, but since it is not clean case of acquittal, Petitioner's prayer for reinstatement was rejected vide order dtd.22.04.2024 under Annexure-9 so followed vide order dtd.28.08.2024 under Annexure-12.

5.2. It is contended that since Petitioner has been acquitted by this Court on the benefit of doubt, it cannot be treated as a clean acquittal and accordingly in view of the nature of offence committed by the Petitioner, even though he was acquitted, Petitioner is not entitled to get the benefit of reinstatement. It is accordingly contended that no interference is called for.

6. Ms. B.K. Pattnaik, learned counsel appearing for the Petitioner on the other

hand while making further submission contended that in a similar issue of an employee working under the State in the capacity of Block Development Officer and convicted for the offence under Sections-13(1)(b) of the Prevention of Corruption Act read with Section- 473-A/34 of the IPC, he was dismissed from his services vide order dtd.16.06.2012. But on his acquittal by this Court in its judgment dtd.11.09.2019 in Criminal Appeal No.101 of 2012, Petitioner therein was reinstated vide order dtd.31.07.2020. Order dtd.16.06.2012 and 31.07.2020 reads as follows:-

"16.06.2012:- Whereas Gri Balram Bap. OAS-I(JB). Ex-Block Development Officer. with Section 13 (1) (d) of Prevention of Corruption Act, 1988 and Section 477-A/3A Nandahandi has been convicted on a criminal charge under Section 13(2) read of Indian Penal Code.

And, whereas, it is considered that, the conduct of the said Sri Balram Bag, OAS-I(JB), Ex-Block Development Officer, Nandahandi which has led to his conviction is such that to allow his further retention in the public service is undesirable.

And, whereas Odisha Public Service Commission, Cuttack, have been consulted on the tentative decision of the Government in letter. No.903/R(CS), dated: 28.04.2012 and the Odisha: Public Service Commission, Cuttack have concurred in to the tentative decision of the Government and communicated to this Department vide letter No.3900/PSC., dated: 19.05.2012.

Now, therefore, in exercise of powers conferred by Sub-rule (i) of the Rule-18 of O.C.S. (CC&A) Rules, 1982 and in consultation with Odisha Public Service Commission: Cuttack, the Governor of Orissa has been pleased to dismiss the said Sri Balram Bag, OAS-I(JB), Ex-Block Development Officer, Nandahandi from service with immediate effect."

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31.07.2020:- Whereas, a Criminal case was in trial in the Court of Special Judge, Vigilance, Jeypore in Bermampur Vigilance P.S Case No. 20 dated 03.09.1993 under Sections U/s. 13 (2) r/w 13 (1) (d)/PC Act/477-A/34 of IPC against Sri Balaram Bag. OAS-A (JB), Ex-B.D.O Nandahandi Block, Dist.-Nabarangapur for abusing his official position for his own pecuniary benefit by showing undue official favour to the firms in purchase of Purlins/ Rafters AC sheets etc. causing loss of Government money

And whereas, the Learned Special Judge. Vigilance. Jeypore in his judgment dated 11.02.2012 has held the accused Sri Balaram Bag. OAS-A (JB), Ex- B.D.O.. Nandanand Block. Dist-Nabarangapur guilty of the charges. The Learned Special Judge, Vigilance Jeypore convicted and sentenced accused Sri Balaram Bag to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs. 50,000/- (Fifty Thousand) and in default, to undergo further rigorous Imprisonment for a period of Six (06) months for the offence under Section 13(2) read with Section 13 (1) (d) of the Prevention of Corruption Ac. 1988 and

to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 50,000/-(Rupees Fifty Thousand), in default, to undergo further rigorous imprisonment for a period of six (06) months for the offence under Sections 477-A/34 IPC It is also directed that both the substantive sentences shall run concurrently and the period of detention already undergone UTP shall be off in terms of Sec. 428 of Cr.P.C:

And whereas, in pursuant to the judgment dated 10.02.2012 of the Learned Special Judge Vigilance, Government in Revenue & DM Department have dismissed Sri Balaram Bag, CAS-A (JB), E-BDC, Nandahandi, Dist.-Nabarangpur with immediate effect as par Rule(8) of OCS (CC&A) Rules, 1962 vide

Revenue & DM Department Order No. 28578 dated 18.06.2012.

And Whereas. Sri Balaram Bag appealed against the judgment dated 10.02.2012 passed by the Learned Special Judge, Vigilance, Jeypore before the Hon'ble High Court of Odisha vide CRLA No. 101 of 2012. The Hon'ble High Court vide their judgment dated 11.09.2019 has allowed the Criminal Appeal and set aside the impugned Order dated 10.02.2012 of Learned Special Judge, Vigilance. Jeypore of conviction of the appellant, Sri Balaram Bag under Section 13 (2) read with Section 13(1) (d) of the 1988 ACT and Section 477-A read with Section 34 of the IPC and the sentence passed thereunder. The Hon'ble High Court has also acquitted the appellant, Sri Balaram Bag from all the charges and discharged from liability of his bail bonds;

Now after careful consideration of the aforesaid judgment dated 11.09.2019 passed by Hon'ble High Court of Odisha in CRLA No. 101 of 2012, Government have been pleased to revoke the order of dismissal issued vide Revenue & DM Department Order No".

6.I. It is accordingly contended that on the face of similar benefit extended in favour of similarly situated employee rejection of the Petitioner's claim to get the benefit of reinstatement is not only illegal but also is contrary to the decision in the case of Ramlal so followed in the case of Haharana Pratap Singh.

7. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds that Petitioner while continuing in his service, because of his conviction and sentence in S.T. Case No.44/2019 of 2014 by the learned Addl. Sessions Judge, Nayagarh on 29.05.2015, was dismissed from his services vide order dtd.30.06.2015 under Annexure-5. Such order of conviction and sentence was set aside by this Court in its judgment dtd.19.10.2023 under Annexure-6.

7.I. After his acquittal, prayer of the Petitioner to get the benefit of reinstatement was rejected vide order dtd.22.04.2024 under Annexure-9, further confirmed by the appellate authority-Opposite Party No.3 vide order dtd.28.08.2024 under Annexure-12.

7.2. Following the decision in the case of Ramlal so followed in the case of

Haharana Pratap Singh and the extension of the benefit of reinstatement in favour of one such convicted employee after his acquittal, this Court is of the view that the ground on which claim of the Petitioner was rejected is not sustainable in the eye of law.

7.3. Therefore, this Court following the aforesaid decisions in the case of Ramlal and Haharana Pratap Singh and the benefit extended in favour of similarly situated convicted employee, is of the view that Petitioner is eligible and entitled to get the benefit of reinstatement.

7.4. Therefore, this Court while quashing the order of dismissal dtd.30.06.2015 under Annexure-5 and rejection of the prayer for reinstatement vide order dtd.22.04.2024 and 28.08.2024 under Annexure-9 and Annexure-12, directs Opposite Party No.4 to pass an order of reinstatement in favour of the Petitioner within a period of four (4) weeks from the date of receipt of this order. The break period of service be regularized in accordance with law.

8. Accordingly, the Writ Petition stands disposed of.