



IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No. 608 of 2024
CNR No. ODHC010010872024**

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

.....

Himansu Sekhar Sahu

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

For Petitioner : Mr. P.C. Mahapatra, Advocate

For Opp. Parties : Mr. A. Tripathy, Addl. Govt. Advocate

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 02.09.2026 & Date of Judgment:02.09.2026

Biraja Prasanna Satapathy, J.

1. This matter is taken up through hybrid mode.
2. Heard Mr. P.C. Mahapatra, learned counsel appearing for the Petitioner and Mr. A. Tripathy, learned Addl. Govt. Advocate appearing for the Opp. Parties.



3. Pursuant to order dtd.12.08.2026, learned Addl. Govt. Advocate produced the instruction so provided by the Department in its letter dtd.31.08.2026. The same be kept in record.

4. The present writ petition has been filed inter alia with the following prayer:-

“It is, therefore, prayed that your Lordships' be graciously pleased to admit the writ petition, issue rule nisi in the nature of appropriate writ or any other writ (s) as deem fit and proper calling upon the Opp. Parties to show cause as to why the prayer made hereunder shall not be allowed, and if no/insufficient cause is shown, the said rule be made absolute by issuing writ(s) in the nature of :

The impugned disciplinary proceeding dt. 09.09.2021 at Annexure-2 passed by the O.P. No.1 be quashed being violative to the Rule 7(2)(b)(ii) of OCS (Pension) Rules, 1992 in the interest of justice.

AND,

The Opp. Parties be directed to exonerate the petitioner from all charges levelled against him in the impugned proceeding in violative to the statutory provisions of law in the interest of justice.

AND,

Further be pleased to pass such other writ (s)/order (s) as may deem just and proper,”

5. It is contended that since the proceeding initiated vide memorandum dtd.09.09.2021 has been initiated in respect of an event, which is more than 4 years prior to retirement of the Petitioner and so also the initiation of the proceeding, the said proceeding is barred in view of the provisions



contained under Rule 7(2)(b)(i) of the OCS (Pension) Rules, 1992. Rule 7 of the Rules reads as follows:-

“7. Right of Government to Withhold or Withdraw Pension-

(1) The Government reserve to themselves the right of withholding a pension or gratuity, or both either in full or in part, or withdrawing a pension in full or in part, whether permanently or for specified period and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence in duty during the period of his service including service rendered on reemployment after retirement

Provided that the Odisha Public Service Commission shall be consulted before any final orders are passed

Provided further that when a part of pension is withheld / withdrawn, the amount of such pension shall not be reduced below the amount of minimum limit

(2) deals with procedure:

(a) If departmental proceedings were instituted while the servant was in service, after retirement it shall be deemed to be proceedings under this rule and continued by same authority

(b) If not instituted while in service:

(i) shall not be instituted save with sanction of Government

(ii) shall not be in respect of any event which took place more than 4 years before such institution

(iii) shall be conducted by such authority as Government may direct



(c) No judicial proceedings, if not instituted while the Government servant was in service, shall be instituted in respect of a cause of action which arose or event which took place more than 4 years before

Explanation of Rule 7:

(a) 'serious crime' includes offence under Official Secret Act, 1923

(b) 'grave misconduct' includes communication/disclosure of any secret official code, password, sketch, plan, etc. obtained while holding office so as to prejudicially affect public interest or security of

In simple meaning: Govt. can stop your full pension/gratuity if you are found guilty of grave misconduct, but for cases started AFTER retirement, it can only be for events within last 4 years."

5.1. It is accordingly contended that since the proceeding is barred in view of the aforesaid provision, the proceeding is required to be quashed. Considering the stand taken in the writ petition and the challenge made, this Court passed the following order on 12.08.2026:-

"2. Heard learned counsel appearing for the Parties.

3. It is contended that since the proceeding has been initiated against the Petitioner vide the Memorandum dtd.09.09.2021 under Annexure-2 after retirement of the Petitioner on 30.11.2018 and that too in respect of the event of the year 2008-09, in view of the provisions contained under Rule-7(2)(b)(i) of the OCS (Pension) Rules, 1992, the proceeding is barred by law.



4. Learned Addl. Government Advocate for the State is directed to obtain instruction on the issue."

6. Pursuant to such order, learned Addl. Govt. Advocate produced the instruction so issued by the Department in Court. Basing on the instruction it is contended that stipulation contained in Rule 7(2)(b) with regard to limitation will be counted from the date of the knowledge of the authority and not from the date of actual happening of the event. Para 5 of the instruction reads as follows:-

"5. Based on the views of the Law Department examining similar matters relating to initiation of Disciplinary Proceeding against retired officials, and subsequent clarification of the General Administration and Public Grievance Department on the same, wherein, they have observed that "the limitation of four years as provided under Sub-clause (2)(b)(ii) of Rule-7 of O.C.S (Pension) Rules, 1992 refers to the event which came to knowledge of the authority, but not actual date of happening of that event" and taking into account the views of General Administration (Vigilance) Department that the date of occurrence in this particular case is to be the date on which the event come to the notice of the "Appointing Authority", i.e. after 16.05.2019 along with the fact that the petitioner was a retired Government Official, a Disciplinary Proceedings vide this Department Memorandum No. 12930/W dtd.09.09.2021 was instituted u/r-7 of the Odisha Civil Services (Pension) Rules, 1992 r/w rule-15 of the Odisha Civil Services (CC&A) Rules,



*1962 against Sri Himansu Sekhar Sahu, Ex-A.E., Baliguda
West (R&B) Sub-Division, now retired AEE.”*

6.1. It is accordingly contended that in view of the suggestion given by the G.A. Department, the proceeding is not barred by time in view of the stipulation contained in Rule 7(2)(b) of the Rules.

7. Having heard learned counsel appearing for the Parties and considering the submission made, it is found that the impugned proceeding was initiated against the Petitioner vide memorandum dtd.09.09.2021 under Annexure-2 and from the article of charges so enclosed as Annexure-II to the memorandum, it is found that the event relates to the period from 16.03.2006 to 30.11.2010.

7.1. In view of the specific provision contained under Rule 7(2)(b)(ii) of the Rules and the admitted fact that the proceeding has been initiated in respect of the event for the period from 16.03.2006 to 30.11.2010, it is the view of this Court that the proceeding is barred as per the aforesaid provision.

7.2. Stand taken by the State that the period of limitation will be counted from the date of knowledge is not acceptable as it is contrary to the provisions contained under Rule 7(2)(b)(ii) of the Rules.



7.3. In view of the aforesaid analysis and the admitted fact that the proceeding has been initiated contrary to the provisions contained under Rule 7(2)(b)(ii) of the Rules, this Court is inclined to quash the proceeding and quash the same accordingly.

8. The writ petition accordingly stands disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Orissa High Court, Cuttack
Dated the 2nd September, 2026/Sneha

Signature Not Verified

Digitally Signed
Signed by: SNEHANJALI PARIDA
Reason: Authentication
Location: High Court of Orissa, Cuttack
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