



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.412 of 2026

CNR No. ODHC010011242026

**Dr. Hemanta Kumar
Moharana**

....

Petitioner

Mr. L.K. Tripathy, Adv

-versus-

State of Odisha & Others

....

Opp. Parties

Mr. P.K. Sahoo, ASC

CORAM:

THE HON'BLE MR.JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

18.08.2026

W.P.(C) No.412 of 2026 & I.A. No.6240 of 2026

Order No.

- 5.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Additional affidavit filed by the learned counsel appearing for the Petitioner in Court with service of copy on the learned Addl. Standing Counsel be kept on record.
3. Pursuant to order dtd.14.05.2026, learned Addl. Standing Counsel produced the instruction provided by the Department vide its letter dtd.06.08.2026. The same also be kept on record.
4. Heard learned counsel appearing for the parties.
5. This present Writ Petition has been filed inter alia with the following prayer:

*The Petitioner, therefore, most humbly
prays that your Lordship would be*



*graciously pleased to issue rule nisi calling upon the opp. parties to show cause as to why the Opp. Party No.1 should not be directed to re-instate the Petitioner and also as to why the impugned suspension order at Annexure-6 and rejection order at Annexure-14 should not be quashed with all consequential financial and service benefits in light of well settled principles of law as observed by the Hon'ble Apex Court in **Ajay Kumar Choudhury Versus Union of India reported in AIR 2015 SC 2389 and also Union Of India & Anr vs Ashok Kumar Aggarwal reported in AIR ONLINE 2013 SC 479***

And further be pleased to direct the Opp. Parties to treat the said period of suspension as duty pay And if the Opp. Party failed to show cause or sufficient cause, the rule be made absolute.

And further be pleased to issue any other appropriate writ or order/orders, as may be deemed fit and proper in the interest of justice.

And for which act of kindness, the Petitioner as in duty bound shall ever pray.

6. Learned counsel appearing for the Petitioner contended that pending initiation of a Disciplinary Proceeding, Petitioner was placed under suspension vide order dtd.18.06.2025 under Annexure-6 of Opp. party No.1. It is contended that even though Petitioner pending initiation of the proceeding was placed under suspension, but no proceeding has yet been initiated.



6.1. Not only that, when a draft charge was submitted by the CDM & PHO, Jajpur-Opp. party No.3 for initiation of the proceeding, Opp. Party No.1 on finding that basing on such charge, no major penalty can be imposed as provided under OCS (CCA) Rules, 1962, when requested the CDM & PHO, Jajpur-Opp. party No.3 to submit a fresh draft charge, CDM & PHO vide his letter dtd.06.08.2026 so enclosed to the Additional Affidavit intimated that no other charge is available to be framed against the Petitioner.

6.2. It is accordingly contended that since Petitioner is continuing under suspension for the last more than 1(one) year and there is no charge to be framed against the Petitioner, save and except the draft charge so submitted by Opp. Party No.3, which was not accepted by Opp. Party No.1, with quashing of the impugned order of suspension, appropriate direction be issued to Opp. party No.1 to re-instate in his service. It is also contended that even though Petitioner is continuing under suspension for more than one year, but he is not getting the subsistence allowance as due and admissible.



6.3. Making all these submission, learned counsel appearing for the Petitioner contended that with quashing of the impugned order of suspension, appropriate direction be issued to Opp. party No.1 to re-instate him in service.

7. Even though notice of the Writ Petition was issued on 12.01.2026, but no counter affidavit has been filed as yet. However, when Petitioner raised a claim that he is not getting the subsistence allowance as due and admissible and this Court directed learned Addl. Standing Counsel to obtain instruction vide order dtd.14.05.2026, basing on the instruction, learned Addl. Standing Counsel contended that since no proceeding has yet been initiated against the Petitioner, Petitioner cannot be re-instated. However, stand taken in para-6 of the instruction reads as follows:

“ That, the matter of re-instatement of the Petitioner was reviewed by the Suspension Review Committee on 2.02.2026. As Disciplinary Proceeding was not initiated against him, the re-instatement of the Petitioner was not considered by the Committee.”

7.1. It is also contended that since the draft charge submitted by the CDM & PHO, Jajpur was not



accepted by Opp. party No.1 and he has been directed to submit a fresh draft charge, unless and until such fresh draft charge is submitted by Opp. party No.3, Petitioner cannot be re-instated. It is further contended that Petitioner if is not getting the subsistence allowance as due and admissible, he may raise the same before Opp. party No.1

8. Having heard learned counsel appearing for the parties and considering the submission made, this Court finds that Petitioner while continuing as Medical Officer in CHC, Korei, deployed to CHC, Dharmasala in the district of Jajpur, pending initiation of a Disciplinary Proceeding, he was placed under suspension vide order dtd.18.06.2025 under Annexure-6. The fact which is not disputed, no proceeding as yet has been initiated against the Petitioner, even though Petitioner is continuing under suspension for more than one year.

8.1. It is also found from the record that when Opp Party No.3 submitted the draft charge and Opp. party No.1 found that basing on such draft charge, no major penalty can be imposed and Opp. party No.1 directed Opp. Party No.3 to submit a fresh draft charge, Opp. party No.3 vide his letter



dtd.06.08.2026 so enclosed to the additional affidavit, intimated that there is no other charge available to be framed against the Petitioner.

8.2. This Court also finds that in number of cases the State Government is not allowing Doctors to take voluntary retirement and/or resign, on the ground that the State is facing dearth of Doctor. But in the instant case, a doctor who is continuing under suspension for the last one and half year is not being re-instated, even though no proceeding has yet been initiated against him.

8.3. This Court while not appreciating such conduct of Opp party No.1, is inclined to quash order dtd.18.06.2025 so passed by Opp. party No.1 under Annexure-6. While quashing the said order, this Court directs Opp. party No.1 to re-instate the Petitioner in his service with passing of an appropriate order within a period of 2(two) weeks from the date of receipt of this order. Petitioner is permitted to provide a copy of this order before Opp. party No.1 for compliance. Subsistence allowance, if any, as due and admissible has not been released, be released within a period of 1(one) month from the date of re-instatement of the Petitioner.



9. The Writ Petition along with the I.A accordingly stand disposed of.

(Biraja Prasanna Satapathy)
Judge

sangita

Signature Not Verified

Digitally Signed
Signed by: SANGITA PATRA
Reason: authentication of order
Location: high court of orissa, cuttack
Date: 19-Aug-2026 13:54:11

