



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.17054 of 2010
CNR No.ODHC010240102010

Subash Ch. Pradhan

Petitioner
Mr. P.K. Nanda,
Advocate

-versus-

**Managing Director-
cum-Appellate
Authority, Orissa
Forest Development
Corporation Limited
and Others**

Opp. Parties
Mr. P. Jena, Advocate
for the Corporation

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

Order
No

ORDER
13.08.2026

- 07.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel for the Parties.
3. Petitioner has filed the present Writ Petition with the following prayer:-

“It is, therefore, humbly prayed that this Hon’ble Court may graciously be pleased to issue Rule Nisi calling upon the Opp. Party to show cause as to why a writ in the nature of mandamus or any other appropriate writ(s) shall not be issued in quash the charges framed against the petitioner under Annexure-2, quash the order dtd.22.04.2010 passed by the disciplinary authority under Annexure-7 and further be pleased to quash the order dtd.05.08.2010 passed by the appellate authority under Annexure-9 and on



perusal of causes shown if any or upon insufficient causes shown, this Hon'ble Court may make the said rule absolute and may pass such other order/orders as deemed just and proper."

4. It is contended that in the proceeding initiated against the petitioner vide Memorandum dated 21.05.2007 under Annexure-2, petitioner duly filed his written statement of defence under Annexure-3 and also participated in the enquiry.

4.1. It is however contended that without giving a personal hearing to the petitioner, the Disciplinary Authority-Opp. Party No.3 disposed of the proceeding with passing of the impugned order dated 22.04.2010 under Annexure-7. The following punishment was imposed on the petitioner vide the said order:-

"1. A sum of Rs.1,27,500/- is to be recovered from Sri Subash Chandra Pradhan, SS towards los sustained by OFDC and Sri Pradhan is directed to deposit the said amount with Divisional Manager, OFDC Ltd., Jeypore (C-KL) Division. On failure the said amount shall be recovered from his payable dues/retiral dues.

2. Three annual increments is stopped with cumulative effect.

3. He is censured."

4.2. It is contended that petitioner though preferred an appeal before Opp. Party No.1, but the same was also rejected without proper appreciation of the petitioner's claim. While assailing both the orders, learned counsel for the petitioner contended that petitioner was never given a personal hearing and the stand taken in the impugned order under Annexure-7 that petitioner on the face of the



notice issued on 28.04.2009, did not appear for personal hearing and accordingly the proceeding was disposed of ex-parte, is not true and correct.

4.3. It is contended that no such notice dtd.28.04.2009 was ever served on the petitioner and accordingly petitioner could not appear for the personal hearing. It is also contended that even though such a stand was taken in the appeal but the Appellate Authority without proper appreciation, rejected the appeal vide the impugned order dated 05.08.2010 under Annexure-9.

4.4. However, it is fairly contended that in view of the interim order passed by this Court, no recovery of the amount so indicated in the order at Annexure-7 has been made. It is also contended that petitioner in the meantime has retired from his services on attaining the age of superannuation in the year 2018.

4.5. It is contended that since petitioner was never given a personal hearing and notice issued on 28.04.2009, asking the petitioner to participate in the personal hearing was never served on the petitioner, not only the order passed by the Disciplinary Authority under Annexure-7 is illegal but also the order passed by the Appellate Authority under Annexure-9. Hence, both the orders require interference of this Court.

5. Mr. P. Jena, learned counsel appearing for the Corporation on the other hand made his submission



basing on the stand taken in the counter affidavit so filed. It is contended that in the proceeding initiated against the petitioner under Annexure-2, after completion of the enquiry with submission of the report, petitioner vide letter dated 28.04.2009 under Annexure-D, was directed to appear for personal hearing on 01.06.2009.

5.1. Even though such a notice was issued to the petitioner, but petitioner never availed the opportunity nor participated in the personal hearing so fixed to 01.06.2009. Since petitioner in terms of letter dated 28.04.2009 did not attend the personal hearing, Disciplinary Authority disposed of the proceeding vide order dated 22.04.2010 under Annexure-7. It is also contended that notice dated 28.04.2009, though was served on the petitioner, but he refused to accept the same, so reflected in the communication made by Opp. Party No.2 in his letter dated 21.12.2009 under Annexure-E. It is contended that since petitioner refused to accept the notice dated 28.04.2009 so served on him by Opp. Party No.2, it cannot be held that petitioner was not given a personal hearing.

5.2. It is accordingly contended that no illegality or irregularity can be found either with the impugned order passed by the Disciplinary Authority under Annexure-7 or passed by the Appellate Authority vide order under Annexure-9.



6. To the submission made by learned counsel appearing for the Corporation, learned counsel for the petitioner made further submission contending inter alia that notice dated 28.04.2009, was communicated to the petitioner as found from Annexure-E vide letter dated 21.12.2009. But there is no proof that such a letter dated 21.12.2009 along with letter dated 28.04.2009 was served on the petitioner.

6.1. It is also contended that since the date of appearance for personal hearing was fixed to 01.06.2009 in notice dated 28.04.2009, the same could not have been served on the petitioner vide letter dated 21.12.2009 under Annexure-E and that too without fixing another date of hearing. It is accordingly contended that notice dated 28.04.2009 was never served on the petitioner.

7. Having heard learned counsel for the parties and considering the submission made, this Court finds that in the proceeding initiated against the petitioner vide Memorandum dated 21.05.2007 under Annexure-2, after submission of the enquiry report and the show-cause with submission of the reply, the impugned order was passed by Opp. Party No.3 vide order dated 22.04.2010 under Annexure-7. In the said order, it was indicated that since petitioner did not avail the opportunity of personal hearing, the matter was decided Ex-parte. Appeal filed by the petitioner against such an order was also rejected by



Opp. Party No.1 vide order dated 05.08.2010 under Annexure-9.

7.1. This Court after going through the document available under Annexure-D notice dated 28.04.2009, finds that petitioner vide the said letter was directed to appear for personal hearing on 01.06.2009. But as found, the said letter was communicated to the petitioner by Opp. Party No.2 vide his letter dated 21.12.2009 under Annexure-E.

Since the date of personal hearing was fixed to 01.06.2009 in letter dated 28.04.2009, it is the view of this Court that the said notice could not have been communicated to the petitioner vide letter dated 21.12.2009 under Annexure-E and that too without fixing another date of personal hearing after 01.06.2009.

7.2. In view of such illegality and irregularity with regard to issuance of letter under Annexure-D and E, it is the view of this Court that personal hearing was never given to the petitioner and Opp. Party No.3 should have taken into consideration that aspect while disposing the proceeding Ex-parte vide order under Annexure-7. Not only that pursuant to the interim order passed by this Court, no recovery has yet been effected from the petitioner and petitioner has attained the age of superannuation in the meantime.



7.3. In view of the aforesaid analysis, this Court is of the view that order under Annexure-7 and 9, cannot sustain legal scrutiny. Accordingly, while quashing both the orders under Annexure-7 & 9, this Court remits the matter to Opp. Party No.3 to take a fresh decision in the Proceeding, by giving a personal hearing to the petitioner. Petitioner is permitted to provide a copy of this order before Opp. Party No.3 for compliance. On receipt of the order, Opp. Party No.3 shall fix a date of personal hearing and the proceeding be decided afresh in accordance with law as expeditiously as possible preferably within a period of 3(three) months from the date of receipt of this order, if there is no other legal impediment.

8. The Writ Petition stands disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Basudev

Signature Not Verified

Digitally Signed
Signed by: BASUDEV SWAIN
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 17-Aug-2026 14:37:55

