

IN THE HIGH COURT OF ORISSA AT CUTTACK

CONTC No.586 of 2017

Narayan Mahali

....

Petitioner

Mr. S.K. Rath-1, Advocate

-versus-

***Nirmal Chandra Mishra,
Collector, Cuttack***

....

Contemnor/Opp.Party

Mr. L. Samantaray, AGA

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M. S. SAHOO**

Order No.

**ORDER (Oral)
31.10.2022**

02.

This matter is taken up through virtual/physical mode.

1. The petitioner after having worked as a Head Clerk in the office of the Collectorate, Cuttack for more than 23 years was transferred vide order dated 25.04.2013 to a different office within the vicinity of city of Cuttack. The said transfer order was challenged by the petitioner after almost a year before the Odisha Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.1152(C) of 2014. The learned Tribunal vide interim order dated 24.03.2014 in the pending O.A. had refused to entertain the prayer for interim protection/ stay. It is this interim order dated 24.03.2014 was the subject matter of W.P.(C) No.6763 of 2014 filed before this Court. The said writ petition was disposed of vide order dated 16.05.2014. The operative portion read as under:

"8. In view of the above, we are of the opinion that interest of justice would be best served if the

petitioner is allowed to join in the Tahasil Office, Sadar Cuttack and allowed to continue as such till expiry of the second term as Secretary and whereafter the Administration of Collector, Cuttack would be at liberty to transfer the petitioner to any other location on its discretion.

9. *The petitioner is at liberty to bring this order to the notice of the Tribunal. The direction given in this order shall no way influence the Tribunal for disposal of the original application.*

10. *This order may be implemented forthwith by the concerned authority and steps be taken for regularizing the period of service of the petitioner.*

11. *With the aforesaid observation and direction, the writ petition is disposed of."*

2. It transpires that for the alleged non-compliance of the directions dated 16.05.2014, the petitioner filed CONTC No.613 of 2014. The same was dropped in the light of subsequent developments. The operative portion of the order dated 20.09.2016 passed in the Contempt reads as under:

" In view of the facts as noted herein above and in view of the fact that the petitioner has filed O.A. No.946(C) of 2015 challenging the initiation of departmental proceeding, we are of the considered view that the petitioner is at liberty to canvass all such contentions before the learned Tribunal and any observation made by us in the contempt proceeding is premature and may tantamount to having any impact on the Original Application. Therefore, we refrain from giving any observation on the same by granting the petitioner liberty to canvass all such contentions as he may be advised before the learned Tribunal.

The contempt proceeding is dropped.

We make it clear that dropping of the contempt proceeding will not prejudice either side and the parties are at liberty to raise all such contentions before the learned Tribunal. "

3. The present contempt has been filed for the alleged violation of the order dated 16.05.2014 passed in W.P.(C) No.6763 of 2014 as well as the order dated 20.09.2016 passed in CONTC No.613 of 2014. Learned counsel for the petitioner submits that the disciplinary proceedings initiated against the petitioner were quashed by this Court in the writ petition filed challenging the order of dismissal of petition passed in O.A. No.946(C) of 2015 challenging the departmental proceedings. Therefore, the action of the competent authority in not regularizing the period of relieving of charge from the office of the Collectorate, Cuttack to the joining at Sadar Tahasil, Cuttack in terms of the transfer order dated 25.04.2013 amounts to committing of the contempt.

4. On the other hand, Mr. Samantaray, learned counsel for the Opposite Party submits that the issue of regularization of that period, if at all should have been pressed before the Tribunal at the time of decision of O.A. No.1152(C) of 2014 wherein the transfer order was challenged. The petitioner having omitted to press that claim at the appropriate time before the appropriate authority, cannot even remotely suggest that there is a violation of any interim orders passed by this Court.

5. After hearing learned counsel for the petitioner, we are persuaded to accept the plea of Mr. Samantaray. We find that no contempt is made out as there is no such direction in the order.

6. In view of the above, the contempt proceedings are dropped and the CONTC is dismissed.

**(Jaswant Singh)
Judge**

**(M.S. Sahoo)
Judge**

AKK

31st October, 2022
Cuttack

