

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 21162 of 2015

Debabrata Panigrahi

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Petitioner

Mr. A.K. Nath, Advocate

Vs.

***Orissa Administrative Tribunal,
Bhubaneswar and others.***

.....

Opposite Parties

Mr. B.P. Tripathy, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

11.05.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Mr. A.K. Nath, learned counsel appearing for the petitioner and Mr. B.P. Tripathy, learned Additional Government Advocate appearing for the state-opposite parties.

3. The petitioner has filed this writ application challenging the order dated 14.09.2015 passed by the Orissa Administrative Tribunal, Principal Bench, Bhubaneswar in O.A. No. 309 of 2014, whereby the tribunal observed that rightly the department had proceeded against the petitioner for his unauthorized absence for such a long period of five years and awarded punishment of 'Censure' prescribed I Rule 13 of the OCS (CC&A) rules and for his unauthorized absence, the period of absence was treated as leave without pay, and, as such, the tribunal did not incline to interfere with the impugned order.

4. Mr. A.K. Nath, learned counsel for the petitioner contended that the petitioner was working as a Sanskrit Teacher under ST & SC Development Department. He remained unauthorized absence

for a period of five years and thereafter, he resumed his duty. However a departmental proceeding was initiated against him and he was issued with punishment of 'censure' and the period of absence was treated as leave without pay. The petitioner therefore, filed the original application seeking direction to the opposite parties to regularize such period of absence by treating the same as duty. However, the same was rejected by the tribunal in the impugned order.

5. Mr. B.P. Tripathy, learned Additional Government Advocate contended that since the petitioner remained unauthorized absence for a quite long period, he is not entitled get the claim made by the petitioner and, thereby the tribunal has not committed any error so as to warrant any interference by this Court.

6. Having heard learned counsel for the parties and after going through the record, it appears that the petitioner was working as a Sanskrit Teacher under ST & SC Development Department. While he was continuing in Suakati Boys High School, on 6.12.1999 he was transferred to Jagannathpur. The petitioner was on leave at that point of time and during that leave period he was relieved from Suakati High School on 11.12.1999. However, on 7.1.2000 the said transfer order was cancelled and he was again posted at Raisun Govt. High School. After returning from leave when he learnt that there was no vacancy at Raisuan, he reported the matter to the DWO, Keonjhar. His problem was however not sorted out by the authorities and as a consequence, he was not able to discharge his duties. Therefore, the petitioner approached the

Tribunal in O.A. No.1718(C)/2006. The tribunal disposed of the said O.A. vide order dated 17.11.2006 directing the opposite parties to take a decision on the joining report of the petitioner within a period of two months. Pursuance to such direction, vide order dated 27.7.2007, the joining report of the petitioner was accepted with effect from 28.12.2006 of the Collector and he was also posted at Gonasika High School. While functioning at Gonasika High School a departmental proceeding was initiated against him under Rule-16 of the OCS (CC&A) Rules, 1962 for alleged unauthorized absence from Government duty, disobedience of orders of higher authority, misconduct and negligence in duty. The Inquiring Officer conducted the enquiry and recommended punishment, which was imposed on him i.e. 'censure and the period of absence was treated as leave without pay'.

7. The petitioner challenged the same in O.A. No. 309 of 2014 before the Orissa Administrative Tribunal, Principal Bench, Bhubaneswar. The tribunal after due adjudication of the matter observed that rightly a departmental proceeding was initiated against him and he was issued with punishment of 'censure' prescribed in Rule 13 of the OCS (CC&A) Rules, and for his unauthorized absence, the period of absence was treated as leave without pay, and accordingly dismissed the Original Application.

8. As it appears, the petitioner had remained unauthorized absence for a quote long period. Even if he contended that he submitted his joining report and the same was not accepted, but fact remains he remained absent for more than 5 years. Thereby,

he was proceeded with a departmental proceeding. After due inquiry and consequent upon the inquiry report submitted by the inquiring officer, he was penalized with the punishment of censure and the period of absence was treated as leave without pay. The tribunal after going through the materials available before him came to hold that if the petitioner has not discharged his duty by remaining long absence, he cannot claim the salary for the said period and therefore, rightly such period of absence has been directed to be treated as leave without pay.

9. In view of such position, this Court does not find any error apparent on the face of the impugned order passed by the tribunal, so as to warrant any interference.

10. Thus, the writ petition merits no consideration and the same is accordingly disposed of.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Arun/Bichi