

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.438 of 2010

Akhila Kumar Majhi

....

Petitioner

Mr. Basudev Pujari, Advocate

-versus-

State of Odisha and Others

....

Opposite Parties

Mrs. Suman Pattanayak, Addl. Govt. Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAİK

Order No.

ORDER
06.01.2022

05. 1. The challenge in this petition is to an order dated 8th October, 2009 passed by the Odisha Administrative Tribunal (OAT), Cuttack Bench, Cuttack dismissing O.A. No.2817 (C) of 1997 whereby the Petitioner had sought quashing of the order dated 5th November, 1992 passed by the State Fire Officer, Odisha removing the Petitioner from service.
2. The charge against the Petitioner was that he had sent a wireless message to the State Fire Officer by forging the signature of the Station Officer, Karanjia and also using his seal. It appears that he admitted to sending the fake message in order to facilitate his immediate transfer from Karanjia Fire Station. He also admitted that he had brought a wireless message form from the wireless office and had arranged to make duplicate office seal. The duplicate seal was seized from his person. He got the message translated into English by an outsider and also added a false dispatch number.

3. In the enquiry the Petitioner asked for and was given copy of the relevant records. He did not choose to cross-examine any of the witnesses who deposed against him. He also did not produce any defence witness.

4. The OAT asked for the enquiry record and found that all the Firemen who had been examined had categorically stated that the Petitioner had admitted his guilt. He had been supplied with daily order sheet of all days. The stand taken by the Opposite Parties was that the Petitioner had absconded. The second show cause notice was returned as the addressee could not be located. The OAT found from the records that the second show cause notice was in fact served on the Petitioner at his home address through a special messenger.

5. Before the OAT it was contended by counsel for the Petitioner that it was inconceivable that in the alleged fake message the Petitioner would implicate himself only with a view to somehow seeking his transfer. However, the OAT did not accept this plea. The OAT found that there were no extenuating circumstances in favour of the Petitioner which could persuade it to take a different view in the matter.

6. Before this Court it was contended by learned counsel for the Petitioner that during the time the Petitioner was seeking further time to reply to the show cause notice, he was under transfer orders then, therefore, could not file a reply.

7. Factually, this is not found to be correct. From the reply filed to the petition, the Petitioner was under orders of transfer much earlier. The impugned order removing the Petitioner from service records that in response to the second show cause notice whereby he was asked to show cause by 31st July 1992, the Petitioner sought time to do so till 31st August, 1992. He was in fact given time beyond that date, till 20th October, 1992 with the specific direction that beyond that date he would be given no further time. In the circumstances, this Court is not satisfied that there was any denial of a reasonable opportunity to the Petitioner to file a response to the second show cause notice. No other point has been urged before this Court by learned counsel for the Petitioner.

8. The Court finds no merit in the petition. The writ petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge