

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 32687 of 2011

Iswar Ch. Dash

.....

Petitioner

Mr.D.K. Panda, Advocate

Vs.

State of Odisha and others

.....

Opposite party

Mr. B.P. Tripathy, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

09.03.2022

Order No.

03.

This matter is taken up through hybrid mode.

2. Heard Mr. D.K. Panda, learned counsel for the petitioner and Mr. B.P. Tripathy, learned Additional Government Advocate for the State.

3. The petitioner has filed this writ application assailing the order dated 11.08.2011 passed by the Orissa Administrative Tribunal in O.A. No. 1497 of 2008 under Annexure-14.

4. Mr. D.K. Panda, learned counsel for the petitioner contended that the period of suspension to be treated in what manner has not been decided either by the authority or by the Tribunal, therefore, he has approached this Court. It is also contended that so far as regularization of the service of the petitioner is concerned, that itself also form a part of the penal order passed by the authority. Instead of deciding the same, the Tribunal has permitted the petitioner to file separate application assailing the penal order passed by the authority. Thereby being aggrieved by such order, the petitioner has approached this Court in the present writ petition.

5. Mr. B.P. Tripathy, learned Additional Government Advocate contended that the present writ petition is absolutely frivolous one in view of the fact that whatever penalty has been imposed to the

petitioner, he has not challenged even before the Tribunal, though such liberty was granted to him to file separate one. More so, the period of suspension to be treated in what manner, is the subject matter of penal order passed by the authority. If the authority had decided the period of suspension to be treated in accordance with rules or if they have not done so, the Tribunal has given liberty to the petitioner to assail the same by filing separate Original Application, but the petitioner has not availed the same and approached this Court in the present writ petition.

6. Having heard learned counsel for the parties and after going through the records, it appears that the petitioner is aggrieved by the penal order arising out of a disciplinary proceeding initiated against him by the Collector, Ganjam. Therefore, he approached the Tribunal, but the Tribunal while disposing of the matter vide order dated 11.08.2011 observed that in case the applicant is aggrieved by the penal order arising out of the disciplinary proceeding instituted by the Collector, Ganjam and the order of regularization of his service for these two periods following conclusion of the departmental proceeding, it is open to the petitioner to challenge the order of regularization through separate Original Application. The petitioner did not do in the present Original Application and there was no scope of altering the mode of regularization or pass further order in regard to payment already settled based on the result of the disciplinary proceeding. Pursuant to such observation of the Tribunal, the petitioner has neither filed separate Original Application challenging the penal order passed by the authority concerned, even if the liberty was granted to him and on the other hand approached this Court straightway by filing the present writ application.

7. In view of the above, this Court is not inclined to entertain the

writ application. However, the petitioner is at liberty to pursue his remedy before the appropriate forum in accordance with law, if he is so advised.

8. With the above observation/direction, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

Arun

(SAVITRI RATHO)
JUDGE

