

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 19855 of 2013

Biswanath Panda

.....

Petitioner

Mr. H.K. Mund, Advocate

Vs.

State of Odisha & Others

.....

Opposite Parties

Mr. S. Rath, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE V. NARASINGH

ORDER

11.07.2022

Order No.

05

This matter is taken up through hybrid mode.

2. Heard Mr. H.K. Mund, learned Counsel for the Petitioner and Mr. S. Rath, learned Additional Standing Counsel appearing for the State Opposite Parties.

3. The Petitioner has filed this writ petition seeking to quash the last part of the order dated 30.04.2013 passed by the State Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.3505(C) of 2012 to the extent “*in case the disciplinary proceeding is not completed fully within six months commencing from the date of receipt of this order the O.A. shall be deemed as dropped and no further action shall be taken and pension of the petitioner shall be settled accordingly*”.

4. Mr. H.K. Mund, learned Counsel for the Petitioner contended that since Annexure-8 to the O.A. imposing punishment of reduction of pension by 5% for five years and treating his period

of suspension from 31.08.2000 to 29.02.2004 as such has been quashed by the Tribunal, there is no meaning to pass subsequent order, i.e. *“in case the disciplinary proceeding is not completed fully within six months commencing from the date of receipt of this order the O.A. shall be deemed as dropped and no further action shall be taken and pension of the petitioner shall be settled accordingly”*. Therefore, the subsequent order passed by the Tribunal has to be quashed.

5. Mr. S. Rath, learned Additional Standing Counsel appearing for the State Opposite Parties contended that similar question had come up before the Division Bench of this Court in ***State of Orissa v. Sri Balabhadra Jal***, 2015(I) OLR 537, wherein this Court disposed of the said Writ Petition relying upon the judgment of the apex Court in ***Secretary, Min. of Defence and others v. Prabash Chandra Mirdha***, (2012) 11 SCC 565 and has come to a conclusion in paragraph-12 to the following effect.

“12. On the anvil of the decision cited supra, we have examined the present case. The opposite party has not challenged the charge-sheet on the ground that the authority issuing the same is not competent to initiate the disciplinary proceeding. A disciplinary proceeding is not liable to be quashed on the ground that the proceeding had been initiated as a belated stage or could not be concluded in a reasonable period, unless the delay creates prejudice to the delinquent employee. While passing the order, the learned Tribunal has not kept the aforesaid principles in view. In view of the same, we are of the opinion that the order dated 22.03.2001 passed by the learned Tribunal in O.A.No.320 of 2001 is not in consonance with law. The learned Tribunal travelled beyond its jurisdiction in passing the order.”

6. Since this Court has already decided the question, nothing remains to be adjudicated in the present case. While endorsing the finding of this Court in ***Balabhadra Jal*** (supra), this Court also takes similar view in this writ petition. Accordingly, the order

dated 30.04.2013 passed by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.3505(C) of 2012 to the extent *“in case the disciplinary proceeding is not completed fully within six months commencing from the date of receipt of this order the O.A. shall be deemed as dropped and no further action shall be taken and pension of the petitioner shall settled accordingly”* cannot sustain in the eye of law and the same is liable to be quashed and is hereby quashed.

7. With the above observation & direction, the Writ Petition stands disposed of.

8. Issue urgent certified copy as per rules.

Alok

(DR. B.R. SARANGI)
JUDGE

(V. NARASINGH)
JUDGE

