

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 576 of 2010

Chandi Prasad Sahoo

....

Petitioner

Mr. H.S. Satpathy, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER

21.06.2022

Order No.

03.

1. This matter is taken up through hybrid mode.
2. Heard Mr. S.D. Das learned Senior counsel associated by Mr. H.P. Mohanty and learned Additional Standing Counsel for the State.
3. It is submitted by the learned Senior Counsel for the petitioner that the petitioner who was working as Home Guard is aggrieved by the two show cause notices dated 26.11.2004 and 02.12.2009 at Annexure-2 and 4 respectively issued on the direction of the Commandant has preferred the present writ petition. During the course of hearing the learned senior counsel adverting to Rule 3 of the Odisha Home Guard (Appeal) Rules 1963, which is quoted hereunder;

“3. (a) Any member of Home Guards Aggrieved by-

***(i) An order of Commandant may appeal to the
Deputy Commandant-General;***

- (ii) An original order passed by the Deputy Commandant-General may appeal to the Commandant-General;*
- (iii) An original order passed by the Commandant-General may appeal to this State Government.*
- (b) An original order passed with the concurrence of any superior authority shall be deemed to be an original order of the superior authority.”*

Submitted that since a statutory appeal has been provided for, he may be permitted to move the appellate authority which as per Rules is the Deputy Commandant General.

4. Since the matter is pending before this Court since 2010 in fitness of things, this Court is of the considered opinion that the petitioner should be given an opportunity to ventilate his grievance before the statutory Authority. Notwithstanding, the limitation as contained sub-section 4 of Section 8 of the Odisha Home Guards Act, 1961.

5. Accordingly, it is directed that if the petitioner prefers an appeal within a period of six weeks from today, the same shall be disposed of on merits by the Deputy Commandant General Bhubaneswar, within a period of four months after giving the petitioner an opportunity of hearing.

6. The writ petition accordingly stands disposed of.

(V. NARASINGH)
Judge