

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.18972 of 2012**

***Subash Ch.Ray @ Mallick***

....

***Petitioner***

Mr. N.Sarkar, Advocate

***-versus-***

***District & Sessions Judge, Cuttack  
& Others***

....

***Opp.Parties***

Mr.P.K.Muduli, AGA

**CORAM:  
THE CHIEF JUSTICE  
JUSTICE R.K.PATTANAIK**

**ORDER  
23.02.2022**

**Order No.**

5. 1. There were two sets of adverse entries in the CCRs of the Petitioner. One was for the period of 18<sup>th</sup> June, 2007 to 20<sup>th</sup> June, 2008 which was communicated to him only on 21<sup>st</sup> January, 2012. The second was for the period 15<sup>th</sup> December, 2010 to 29<sup>th</sup> August, 2011 which gain was communicated on 25<sup>th</sup> January, 2012.
2. The Petitioner's denial of promotion was based on the adverse entries in the CCRs. He made a representation against the adverse entries. The said representation was rejected by an order dated 10<sup>th</sup> September, 2012 of the Registrar Civil Courts, Cuttack in the following manner:

“I am directed to communicate to you that in compliance with the order of the Hon'ble High Court passed on 27.07.2012 in W.P.(C) No. 11323 of 2012, the Hon'ble District & Sessions Judge, Cuttack on considering your representation/Show-cause dated 06.02.2012 to ignore the adverse entry in CCR for the

period from 18.06.2007 to 20.06.2008 has been pleased to reject the same.

So, also your representation/ show-cause to ignore the adverse entries in the CCR for the period from 15.12.2010 to 29.08.2011 has also been considered and rejected.”

3. In the earlier order dated 27<sup>th</sup> July, 2012 passed by this Court in Writ Petition Civil No. 1132 of 2007 filed by the same Petitioner, it was held that the Departmental Promotion Committee (DPC) as well as the District Judge, while consideration the case of the Petitioner for promotion to the post of district court Sheristadar Cadre, ought to have noted that his representation against the adverse entries in his CCRs had not been disposed of. Therefore, the matter was sent back to the District Judge to consider the Petitioner’s promotion claim afresh after disposing of his representation.

4. As far as the adverse entries for the period of 18<sup>th</sup> June, 2007 to 28<sup>th</sup> June, 2008 is concerned, clearly the communication of such adverse entries was highly belated, having been made on 21<sup>st</sup> January, 2012. The decision of this Court in ***Suchismita Mishra v. Registrar (Administration) 2018 (I) ILR-CUT-57***, supports a case of the Petitioner that, the delayed communication of adverse CCRs would render reliance upon such adverse CCRs unlawful.

5. As regards the second issue that there should have been reasons given for rejecting the representation against the adverse CCRs for the period of 15<sup>th</sup> December, 2010 from

29<sup>th</sup> August, 2011 again in the same decision, this Court relied on the decision of the Supreme Court in case of ***Dev Dutt v. Union of India (2008) 8 SCC 725*** holding that there have to be reasons given for the rejection of a representation against the adverse entries. It is plain from reading of the impugned order dated 10<sup>th</sup> September 2012, that there are no reasons given by the Registrar Civil Courts, Cuttack for rejection of the Petitioner's representation against the adverse CCRs for the period of 15.12.2010 to 29.06.2011.

6. At this stage, Mr. Muduli appearing for the Opposite Parties submitted that the matter should be remanded to the Registrar, Civil Courts for a fresh decision on the Petitioner's representation on the adverse entries in his CCR for the aforementioned period.

7. The Petitioner superannuated in 31<sup>st</sup> July, 2012 almost 10 years ago. At this stage, remanding the matter to the Registrar, Civil Courts, Cuttack for a fresh decision would only delay matters and prolong the agony of the Petitioner. Consequently, the Court refrains from doing so. It is directed accordingly as under:

- (i) the impugned decision communicated to the Petitioner on 10<sup>th</sup> September, 2012 is set aside;
- (ii) The DPC will consider the case of the Petitioner for promotion as Sheristadar on notional basis from the date when his junior was so promoted;

(iii) If found eligible for such promotion, the Petitioner's pension will be re-fixed from the date of his retirement but he will not get any arrears of pay, consequent upon, such notional promotion;

(iv) The arrears of pension as calculated as per (iii) above will be paid to the Petitioner not later than eight weeks from the date of such decision which will be communicated the Petitioner not later than 2<sup>nd</sup> May, 2022.

8. The writ petition is disposed of in the above terms.

