

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P. (C) No.2148 of 2010

Durga Charan Nayak

....

Petitioner

Mr. S. K. Dalai, Advocate

-versus-

State of Orissa and others

....

Opposite Parties

Mr. S. Parida, Sr. Standing Counsel for S & ME Department

CORAM:

THE CHIEF JUSTICE

JUSTICE R. K. PATTANAİK

ORDER

06.04.2022

Order No.

12. 1. The challenge in the present petition is to an order dated 29th July, 2009 passed by the Orissa Administrative Tribunal, Bhubaneswar (OAT) dismissing O.A. No.1499 of 2007 filed by the present Petitioner.
2. The OAT has by the impugned order upheld the finding of guilt of the Petitioner in the Departmental Proceedings (DP) as well as the penalty imposed on the Petitioner.
3. The Petitioner has also challenged in the present petition the order dated 24th May, 2006 of the District Inspector of Schools (DIS), Salipur finding the Petitioner guilty in six out of seven charges and imposing penalties. The petition further challenges the order dated 29th September, 2007 of the Appellate Authority (AA) i.e. the Director of Elementary Education, Orissa upholding the

finding of guilt and modifying one of the punishments to one of stoppage of three annual increments without cumulative effect.

4. The background facts are that while the Petitioner was working as Headmaster in the Ram Krushnapur UPME School, he was selected as a supervisor for the census work. While the Petitioner was working in the census programme, the DIS, Salipur placed the Petitioner under suspension by an order dated 4th January, 2001, pending disciplinary proceedings under Rule 10(1) of the Odisha Civil Services (Classification, Control and Appeal) Rules, 1965 [OCS (CCA) Rules]. The Petitioner's representation against his suspension was accepted by the order of the Director of Elementary Education, Orissa dated 3rd March, 2001. The Petitioner was then reinstated in service and posted at Baba Mukund Das UPME School, Badakhiri.

5. This was followed by another office order dated 20th June, 2003 issued by the District Inspector of Schools, Salipur proposing to hold a DP against the Petitioner on charges that were communicated to him. The Petitioner then submitted a detailed representation dated 20th August, 2003 replying to the seven charges framed. Since the DP were not concluded, the Petitioner approached the OAT in OA No.683 of 2006, which came to be disposed of on 19th June, 2006 with a direction to the authorities to conclude the DP within four months.

6. Thereafter on conclusion of the enquiry, the DIS held the Petitioner guilty of six of the seven charges by the order dated 24th May, 2006 and inflicted the following punishments:

“(i) Five annual increments without cumulative effect are stopped herewith;

(ii) The period of suspension for which subsistence allowance is allowed in favour of Sri Nayak is treated as such;

(iii) He is warned not to commit such mistake in future.”

7. The Petitioner then filed an appeal before the Director of Elementary Education, Orissa (Opposite Party No.2). By the appellate order dated 29th September, 2007, the finding of guilt was upheld, but the punishment at (i) above was reduced to stoppage of three annual increments without cumulative effect while maintaining the other two punishments.

8. This was challenged before the OAT in OA No.1499 of 2007. By the impugned order, the OAT rejected the petition.

9. This Court has heard the submissions of Mr. S. K. Dalai, learned counsel for the Petitioner and Mr. S. Parida, learned Senior Standing Counsel for the School and Mass Education Department.

10. Mr. Dalai, learned counsel for the Petitioner, submits that the enquiry was held in a great hurry and, therefore, an adequate opportunity was not provided to the Petitioner for defending himself in the enquiry. It is submitted therefore that there was a violation of principles of natural justice. In particular, it is stated that no

opportunity was given to the Petitioner to adduce oral or documentary evidence to substantiate his stand.

11. As noted by the OAT, all the documents sought by the Petitioner were supplied to him on 20th May, 2003 requiring him to file a statement of defence. He filed his statement on 28th August, 2003. Thereafter the DIS directed the Petitioner by his letters dated 1st October, 2004, 10th December, 2004 and 29th March, 2006 to attend the office of the DIS for finalization of the DP. This is only because the Petitioner had requested for a personal hearing. However, the Petitioner did not attend the office of the DIS. It is in those circumstances that the inquiry was finalized and the order dated 24th May, 2006 was passed. Consequently, the Court is unable to agree with the submission of Mr. Dalai that there was any violation of the principles of natural justice.

12. The AA had also heard the Petitioner in person. Although the order dated 24th May, 2006 referred to Rule 15 of the OCS (CCA) Rules, but in fact the entire DP was held under Rule 16 of the OCS (CCA) Rules and therefore the mention of Rule 15 was a typographical error.

13. The Court finds no ground is made out for interference with the impugned order of the OAT or of the order of the AA.

14. The petition is accordingly dismissed, but with no order as to costs.

15. An urgent certified copy of this order be issued as per Rules.

(Dr. S. Muralidhar)
Chief Justice

(R. K. Pattanaik)
Judge

M. Panda

