

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 7338 of 2014

Dr. Dinabandhu Majhi

.....

Petitioner

Mr. S.K. Samantray, Adv.

Vs.

State of Odisha and others

.....

Opposite Parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. MISHRA

ORDER

22.06.2022

Order No.

09.

This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Samantray, learned counsel for the petitioner and Mr. A.K. Mishra, learned Addl. Govt. Advocate for the State-opposite parties.

3. The petitioner has filed this writ petition challenging the order dated 28.01.2014 passed in O.A. No. 1589 of 2011, by which State Administrative Tribunal, Bhubaneswar dismissed the original application and confirmed the order of punishment dated 29.07.2003.

4. Mr. S.K. Samantray, learned counsel for the petitioner contended that while passing the order of punishment, there was non-compliance of principles of natural justice and, as such, the enquiring officer could not have recommended for such punishment of removal from service. Thereby, the tribunal has committed gross error apparent on the face of record by not considering the same in accordance with law.

5. Mr. A.K. Mishra, learned Addl. Government Advocate contended that the punishment of removal from service imposed on the petitioner on 29.07.2003, but the petitioner filed the

original application on 15.12.2011, i.e., after eight years. As per the provisions contained under Odisha Administrative Tribunal's Act, the petitioner has to approach the tribunal within one year. Therefore, the tribunal is well justified in passing the order impugned.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the punishment of removal from service was imposed on the petitioner on 29.07.2003, but the petitioner filed the original application on 15.12.2011, i.e., after eight years. As per the provisions contained under Odisha Administrative Tribunals Act, the petitioner had to approach the tribunal within one year. The tribunal has taken note of the same in paragraph-5 of the order itself and, as such, considering the recommendation of the inquiry report, the petitioner was given opportunity of first show cause notice on 11.06.2001 and 2nd show cause notice on 09.11.2001. Furthermore, the punishment order shows the dates of issue of first and second show cause notices. The petitioner had refused to join at his place of posting at Hemagiri in spite of his leave application not being agreed to and notice for joining was issued by CDMO. The petitioner himself has admitted feeling of his guilt of neglecting government duty in his representation dated 15.09.1999. The order of punishment has been issued on 29.07.2003 before the due date of retirement of the petitioner on 31.01.2004. As such, the petitioner has approached the tribunal after eight years of imposition of penalty on the pretext that he was suffering and filing of representation time and again. Merely, filing of representation, cannot save the limitation. Thereby, the

tribunal is well justified in passing the order impugned. As such, this Court is not inclined to entertain this writ petition.

7. Accordingly, the writ petition stands dismissed.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE

Ashok

