

ORISSA HIGH COURT: CUTTACK

W.P(C) NO. 1312 OF 2015

In the matter of an application under Articles 226 and 227 of the Constitution of India.

Ashok Kumar Acharya. Petitioner

-Versus-

Union of India & Ors. Opp. Parties

For Petitioners : M/s. N. Biswal, Advocate

For Opp. Parties : Mr. P.K. Parhi, DSGI
(for Opp. Party No.1-
Union of India)
Mr. S.K. Patra, Advocate
(for Opp. Party No.2)

P R E S E N T:

**THE HONOURABLE DR. JUSTICE B.R.SARANGI
AND
THE HONOURABLE MR JUSTICE B.P. SATAPATHY**

Date of Hearing & Date of Order:: 18.11.2022

B.P. SATAPATHY, J.

1. The present Writ Petition has been filed challenging the order dated 09.07.2014 in Annexure-4 passed in O.A. No.257 of 2011 by the Central

Administrative Tribunal, Cuttack Bench, Cuttack (in short “Tribunal”) (answering the issue to the effect that the resignation tendered by the Petitioner-applicant from his previous employer entails forfeiture of right to counting his past service and dismissed the original application) as well as to quash the order of rejection dated 04.09.2009 issued under Annexure-9 to the O.A. No.257 of 2011.

2. The Petitioner’s case in nutshell is that prior to his appointment as a Junior Clerk in terms of order dated 26.11.1990, the petitioner had already made his application for his appointment in the establishment of Accountant General (A & E), Odisha, Bhubaneswar. Pursuant to the order dated 26.11.1990, the petitioner joined as a Junior Clerk in the Court of Munsif, Dasapalla under the administrative control of learned District Judge, Puri. However, while so continuing and the petitioner having come out successful in the selection conducted by the Staff Selection Commission for Clerks Grade Examination for the Office of Accountant General (A & E), Odisha, Bhubaneswar, the petitioner was issued with the

order of appointment vide memo No.AD-MM-18-20-B-Clerk-2387 dated 12.02.1993. On receipt of such order of appointment, the petitioner when tendered his resignation from the post of Junior Clerk, the same was duly accepted by the learned District Judge, Puri vide order dated 05.03.1993 under Amnnexure-3 to the Original Application. The said resignation of the petitioner was accepted subject to deposit of one month's pay excluding allowances and clearance of Government dues, if any, outstanding against him. On compliance of the requirements as indicated in Annexure-3, the petitioner joined as a Junior Clerk in the establishment of Accountant General (A & E), Odisha, Bhubaneswar on 07.03.1993.

2.1. Subsequent to his joining in the Office of Opposite Party no.2, when the petitioner made an application to treat his service for the period from 12.12.1990 to 06.03.1993 as pensionable service vide his representation dated 06.06.2007 under Annexure-4 to the Original Application, Opposite Party No.2 vide his letter dated 11.07.2007 under Annexure-5 requested the Registrar, District and Sessions Judge,

Puri to arrange and send the Service Book and personal file of the petitioner for taking further action in the matter.

2.2. On receipt of such letter, Registrar, Civil Courts, Puri vide his letter dated 18.12.2007 under Annexure-6 to the Original Application submitted the required Service Book and personal file of the petitioner for considering the claim of the petitioner to count his service from 12.12.1990 to 06.03.1993 as pensionable service. In the said letter, it was clearly indicated that the petitioner after compliance of the requirement as indicated in the order dated 05.03.1993 was relieved on 06.03.1993 afternoon. But subsequently vide letter dated 26.11.2008, the Service Book and personal file of the petitioner was returned to the Office of Registrar, Civil Court, Puri. Even thereafter when the claim of the petitioner to treat his period of service from 12.12.1990 to 06.03.1993 was kept pending, the petitioner moved an application on 27.08.2009 under Annexure-8 to treat the period in question as pensionable service. But Opposite Party no.2 without assigning any justifiable

reason rejected the claim vide memorandum dated 04.09.2009 under Annexure-9 to the Original Application.

2.3. On receipt of Annexure-9, the petitioner initially approached the learned Tribunal in O.A. No.836 of 2010 and learned Tribunal vide order dated 24.12.2010 while disposing the matter with a direction on Opposite Party No.1 to consider the claim of the petitioner as submitted in his appeal and to pass a reasoned order within a period of sixty days from the date of receipt of this order. Pursuant to the said order and after consideration as directed, when the claim of the petitioner to count his past service from 12.12.1990 to 06.03.1993 as qualifying service was rejected vide order dated 16.03.2011, the petitioner once again moved the learned Tribunal in O.A. No.257 of 2011. But learned Tribunal without proper appreciation of the grounds of challenge and without applying judicial mind to the facts of the case dismissed the O.A. vide order impugned. Hence the present Writ Petition.

3. Learned counsel for the petitioner contended that the petitioner prior to his joining in the Court of Munsif, Daspalla on 12.12.1990 pursuant to order dated 26.11.1990, he had already made his application to take the Clerks Grade Examination to be conducted by the Staff Selection Commission for the Office of Accountant General (A & E), Odisha. The Petitioner while continuing as a Junior Clerk in the Court of Munsif, Daspalla w.e.f 12.12.1990, he was selected in the Clerks Grade Examination and when was issued with the order of appointment with a stipulation therein to join on or before 12.03.1993, the petitioner moved an application before the learned District Judge, Puri for acceptance of his resignation. In consideration of that and vide order dated 05.03.1993, the resignation of the petitioner was accepted subject to compliance of some paraphernalia.

3.1 On compliance thereof, the petitioner joined in the Office of Accountant General (A & E), Odisha, Bhubaneswar on 07.03.1993. After his joining when the petitioner made an application to count his past

service from 12.12.1990 to 06.03.1993 as qualifying service under Annexure-4 to the Original Application, Opposite Party No.2 vide letter dated 11.07.2007 under Annexure-5 requested the Registrar, Civil Courts, Puri to provide the Service Book and personal file of the petitioner for taking further action in the matter. On receipt of such letter, Registrar, Civil Courts, Puri vide letter dated 18.12.2007 provided the Service Book and personal file to the office of Opposite Party No.2 for taking further action in the matter. On receipt of the same and after due verification, the Service Book and personal file of the petitioner was returned vide letter dated 26.11.2008 under Annexure-7. Thereafter, when the claim of the petitioner to count his past service from 12.12.1990 to 06.03.1993 was kept pending, the petitioner again moved an application on 27.08.2009 under Annexure-8. But the said prayer of the petitioner was rejected without assigning any reason vide Memorandum dated 04.09.2009 under Annexure-9 to the Original Application.

3.2. The said order when was challenged by the Petitioner before the learned Tribunal in O.A. No.836 of 2010, learned Tribunal vide order dated 24.12.2010 directed the Opposite Party No.1 to consider the appeal preferred by the petitioner and while considering such claim, the provisions of the relevant Rules and Guidelines of the Government of India quoted by the petitioner in his appeal was directed to be taken into consideration. But the prayer of the petitioner when was finally rejected vide order dated 16.03.2011, the petitioner moved the learned Tribunal in O.A. No.257 of 2011. But the learned Tribunal without proper appreciation of the petitioner's claim and without assigning any justifiable reason refused to entertain the prayer of the petitioner and dismissed the Original Application vide order dated 09.07.2014 under Annexure-4. The said order is impugned in the present writ petition along with the Memorandum dated 04.09.2009 annexed as Annexure-9 to the Original Application.

3.3. It is main contention of the learned counsel appearing for the petitioner that the petitioner prior to

his joining in the establishment of the learned Munsif, Daspalla on 12.12.1990 in terms of order dated 26.11.1990 had already made his application to take the Clerks Grade test to be conducted by the Staff Selection Commission for the Office of Accountant General (A & E), Odisha, Bhubaneswar. While continuing in the Court of learned Munsif, Daspalla, the petitioner when was selected and issued with the order of appointment to join in the establishment of Opposite Party No.2 on or before 12.03.1993, the petitioner submitted his resignation before the learned District Judge, Puri. In consideration of such prayer of the petitioner vide office order dated 05.03.1993 under Annexure-2 to the Original Application, the petitioner was directed to deposit one month's pay and to deposit any other outstanding dues. On such compliance of the order, the petitioner was permitted to resign from his service on 06.03.1993 and the petitioner thereafter joined in the Establishment of Opposite Party No.2 on 07.03.1993.

3.4 The petitioner after his joining under Opposite Party No.2 when moved an application to treat his

service for the period 12.12.1993 to 06.03.1993 as qualifying service, the Opposite Party No.2 requested the Registrar, Civil Courts, Puri to provide the Service Book and personal file of the petitioner. But in spite of providing with the Service Book and the personal file of the petitioner, Opposite Party No.2 without assigning any reason when issued the Memorandum dated 04.09.2009 under Annexure-9 to the Original Application, the matter was challenged before the learned Tribunal in Original Application No.836 of 2010. In spite of the direction by the learned Tribunal passed on 24.12.2010, the prayer of the petitioner was rejected once again without any justifiable reason vide order dated 16.03.2011 under Annexure-12 to the Original Application. Therefore, the order impugned is liable for interference by this Court.

4. Mr. S.K. Patra, learned counsel appearing for Opposite Party No.2, on the other hand, made his submission basing on the stand taken in the counter affidavit it. It is contended that even though the petitioner joined in the Office of Opposite Party No.2 with acceptance of his resignation, but in view of the

guideline contained in G.I. Decision(5) under FR.22, , the prayer of the petitioner was not acceded to. F.R-22 contains the following stipulations.

(i) The Govt. Servant should have intimated the details of such application immediately on his joining.

(ii) The Govt. Servant should make a specific request at the time of his resignation that the same may be treated as "technical resignation"

(iii) The authority accepting the resignation should be satisfied that had the employee been in service on the date of application for the post mentioned by the employee, his application would have been through proper channel.

4.1. Since the petitioner did not fulfill the stipulation contained in FR-22 and the resignation of the petitioner since has not been accepted by his previous employer either for the administrative reason or for technical requirement to join with proper permission, the prayer of the petitioner has been rightly rejected. Not only that the previous employer has never issued the certificate to this effect while accepting the resignation of the petitioner. There is also no mention of the Service Book of the petitioner to the effect that the resignation was accepted to satisfy the technical requirement to join with proper permission. Rather, the petitioner on his own interest

tendered his resignation from service under the State Government and joined as a Clerk in the Office of the Accountant General (A &E), Odisha, Bhubaneswar on 10.03.1993. As such the request of the petitioner for counting his past service rendered towards qualifying service was not acceded to.

4.2. Mr. S.K. Patra, learned counsel appearing for Opp. Party No.2 also brought to the notice of this Court the Office Memorandum dated 27.08.2018 issued by the Government of India Public Redressal Department (Department of Personnel and Training) which deals with the subject with regard to technical requirement. It is contended that since the resignation of the petitioner has not been accepted for any technical requirement, the claim of the petitioner to count his past service in view of the FR-22, cannot be accepted and accordingly it was rejected vide order dated 04.09.2009. Learned Tribunal has rightly passed the order declining to interfere with the matter.

5. We have heard Mr. N. Biswal, learned counsel appearing for the petitioner and Mr. S.K. Patra

learned counsel appearing for the Accountant General (A & E) Odisha, Bhubaneswar along with Mr. P.K. Parhi, learned Deputy Solicitor General of India. Pleadings have been exchanged between the parties and with their consent the matter is being disposed of finally at the stage of admission.

6. This Court after going through the materials available on record and the submissions made find that the petitioner prior to his joining as a Junior Clerk in the Court of learned Munsif, Daspalla on 12.12.1990, pursuant to order dated 26.11.1990. had already made an application to take part in the Clerk Grade Examination to be conducted by the Staff Selection Commission for the Office of Accountant General (A & E), Odisha, Bhubaneswar.

7. This Court further finds that on being selected, after issuance of the order of appointment and to join on or before 12.12.1993, the petitioner submitted his resignation with a prayer to accept the same. In consideration of the said application, learned District Judge, Puri vide Officer order dated 05.03.1993 directed the petitioner to comply certain

requirements and in compliance of the same, the petitioner's resignation was duly accepted and he was relieved w.e.f 06.03.1993. The petitioner thereafter was allowed to join in the Office of Opposite Party No.2 on 10.03.1993. On such joining of the petitioner, when he made an application to count his service for the period 12.12.1990 to 06.03.1993 as qualifying service, Opposite Party No.2 requested the learned Registrar, Civil Court, Puri to provide the Service Book and personal file of the petitioner. Even though the same were duly forwarded vide letter dated 18.12.2007, but without considering the claim of the petitioner in its proper prospective and without assigning any reason whatsoever, the prayer was rejected vide Memorandum dated 04.09.2009 under Annexure-9 to the Original Application No.257 of 2011.

8. This Court finds that while rejecting the claim vide Memorandum dated 04.09.2009 under Annexure-9, no reason whatsoever has been assigned for such rejection. Since reason is the heart bit of any decision, in absence of such reason, this Court is

inclined to hold that the said rejection is not sustainable in the eye of law in view of the decision of the Hon'ble Apex Court as well as of this Court rendered in the cases of **Central Board of Trustees Vs. Indore Composite Private Limited**, reported in **(2018) 8 SCC 443**, **Union Public Service Commission Vs. Bibhu Prasad Sarangi and Others**, reported in **(2021) 4 SCC 516**, **Kranti Associates Private Limited and Another Vs. Masood Ahmed Khan and Others**, reported in **(2010) 9 SCC 496 & AIR 1967 SC 1606**.

9. Hon'ble Apex Court in Para 14 of the judgment in Central Board of Trustees has held as follows:

"14. Time and again, this Court has emphasized on the Courts the need to pass reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising in the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the learned counsel for the parties in support of its conclusion. It is really unfortunate that the Division Bench failed to keep in mind these principles while disposing of the writ petition. Such order, in our view, has undoubtedly caused prejudice to the parties because it deprived them to know the reasons as to why one party has won and other has lost. We can never countenance the manner in which such order was passed by the High Court which has compelled us to remand the matter to the High Court for deciding the writ petition afresh on merits."

10. Hon'ble Apex Court in Para 5 of the judgment in Union Public Service Commission (supra) has held as follows:

“5. Cutting, copying and pasting from the judgment of the Tribunal, which is placed in issue before the High Court, may add to the volume of the judgment. The size of judicial output does not necessarily correlate to a reasoned analysis of the core issues in a case. Technology enables judges to bring speed, efficiency and accuracy to judicial work. But a prolific use of the ‘cut-copy-paste’ function should not become a substitute for substantive reasoning which, in the ultimate analysis, is the defining feature of the judicial process. Judges are indeed hard pressed for time, faced with burgeoning vacancies and large case-loads. Crisp reasoning is perhaps the answer. Doing what the High Court has done in the present case presents a veneer of judicial reasoning, bereft of the substance which constitutes the heart of the judicial process. Reasons constitute the soul of a judicial decision. Without them one is left with a shell. The shell provides neither solace nor satisfaction to the litigant. We are constrained to make these observations since what we have encountered in this case is no longer an isolated aberration. This has become a recurring phenomenon. The National Judicial Academy will do well to take this up. How judges communicate in their judgments is a defining characteristic of the judicial process. While it is important to keep an eye on the statistics on disposal, there is a higher value involved. The quality of justice brings legitimacy to the judiciary”.

11. Similarly, Hon'ble Apex Court in Para Nos. 22,23,25,26,27 & 28,46 & 47 of the judgment, in Kranti Associates Private Ltd. & Others has held as follows:

“22. In M/s. Woolcombers of India Ltd. vs. Woolcombers Workers Union and another, AIR 1973 SC 2758, this Court while considering an award under Section 11 of Industrial Disputes Act insisted on the need of giving reasons in support of conclusions in the Award. The Court held that the very requirement of giving reason is to prevent unfairness or arbitrariness in reaching conclusions. The second principle is based on the jurisprudential doctrine that justice should

not only be done, it should also appear to be done as well. The learned Judges said that a just but unreasoned conclusion does not appear to be just to those who read the same. Reasoned and just conclusion on the other hand will also have the appearance of justice. The third ground is that such awards are subject to [Article 136](#) jurisdiction of this Court and in the absence of reasons, it is difficult for this Court to ascertain whether the decision is right or wrong."

23. [In Union of India vs. Mohan Lal Capoor and others](#), AIR 1974 SC 87, this Court while dealing with the question of selection under Indian Administrative Service/Indian Police Service (Appointment by Promotion Regulation) held that the expression "reasons for the proposed supersession" should not be mere rubber stamp reasons. Such reasons must disclose how mind was applied to the subject matter for a decision regardless of the fact whether such a decision is purely administrative or quasi-judicial. This Court held that the reasons in such context would mean the link between materials which are considered and the conclusions which are reached. Reasons must reveal a rational nexus between the two."

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25. [In Smt. Maneka Gandhi vs. Union of India and Anr.](#), AIR 1978 SC 597, which is a decision of great jurisprudence significance in our Constitutional law, Chief Justice Beg, in a concurring but different opinion held that an order impounding a passport is a quasi-judicial decision. The learned Chief Justice also held when an administrative action involving any deprivation of or restriction on fundamental rights is taken, the authorities must see that justice is not only done but manifestly appears to be done as well. This principle would obviously demand disclosure of reasons for the decision.

26. Justice Y.V. Chandrachud (as His Lordship then was) in a concurring but a separate opinion also held that refusal to disclose reasons for impounding a passport is an exercise of an exceptional nature and is to be done very sparingly and only when it is fully justified by the exigencies of an uncommon situation.. The learned Judge further held that law cannot permit any exercise of power by an executive to keep the reasons undisclosed if the only motive for doing so is to keep the reasons away from judicial scrutiny."

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28. [In Gurdial Singh Fijji vs. State of Punjab and Ors.](#), (1979) 2 SCC 368, this Court, dealing with a service matter, relying on the ratio in Capoor (supra), held that "rubber-

stamp reason" is not enough and virtually quoted the observation in *Capoor (supra)* to the extent that reasons "are the links between the materials on which certain conclusions are based and the actual conclusions."

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46. The position in the United States has been indicated by this Court in *S.N. Mukherjee (supra)* in paragraph 11 at page 1988 of the judgment. This Court held that in the United States the Courts have always insisted on the recording of reasons by administrative authorities in exercise of their powers. It was further held that such recording of reasons is required as "the Court cannot exercise their duty of review unless they are advised of the considerations underlying the action under review".

In *S.N. Mukherjee (supra)* this court relied on the decisions of the U.S. Court in *Securities and Exchange Commission vs. Chenery Corporation*, (1942) 87 Law Ed 626 and *John T. Dunlop vs. Walter Bachowski*, (1975) 44 Law Ed 377 in support of its opinion discussed above.

47. Summarizing the above discussion, this Court holds:

- a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
- b. A quasi-judicial authority must record reasons in support of its conclusions.
- c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
- d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
- e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.
- f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
- g. Reasons facilitate the process of judicial review by superior Courts."

12. In the case *Bhagabat Raja*, Hon'ble Apex

Court has held as follows:

"The decisions of Tribunals in India are subject to the supervisory powers of the High Court under Art. 227 of the Constitution and of appellate powers of Supreme Court under Art. 136. It goes without saying that both the High Court and the Supreme Court are placed under a great disadvantage if no reasons are given and the revision is dismissed curtly by the use of the single word "rejected" or 'dismissed'. Ordinarily, if the State Government gives sufficient reasons for accepting the application of one party and rejecting that of the others, as it must, and the Central Government adopts the reasoning of the State Government, Supreme Court may proceed to ex-amine whether the reasons given in the order of the State Government are scrappy or nebulous and the Central Government makes no attempt to clarify the same, Supreme Court, in appeal may have to examine the case de novo without any- body being the wiser for the review by the Central Government. If the State Government gives a number of reasons some of which are good and some not, and the Central Government merely endorses the order of the State Government with- out specifying those reasons which according to it are sufficient to uphold the order of the State Government, Supreme Court, in appeal may find it difficult to ascertain which are the grounds which weighed with the Central Government in upholding the order of the State Government.

In such circumstances, what is known as a 'speaking order' is called for.

Whereas the old rule directed the Central Government to consider comments on the petition of review by the State Government or other authority only, the new rule is aimed at calling upon all the parties including the State Government to make their comments in the matter and the parties are given the right to make further comments on those made by the other or others. In effect, the parties are given a right to bring forth material which was not before the State Government.

Where the State Government does not find any fault or defect in the application of the unsuccessful applicant and merely prefers another on the ground the "he had adequate general experience and technical knowledge and was an old les- see without any arrears of mineral dues" it is difficult to say what turned the scale in favour of the successful applicant excepting the fact that he was known to the State Government from before, and the order of the Central Government also did not bring out any reason for its own

decision except that no grounds for interference with the decision arrived at was established it could not be said that the Central Government had taken into consideration all the fresh material adduced before it and for the reasons formulated they thought that the turbed. Case law discussed.”

13. Mr. S.K. Patra, learned counsel appearing for Opposite Party no.2 in support of his aforesaid submission placed reliance on a decision of the Hon’ble Supreme Court rendered in the case of ***Union of India Vs. B.M. Jha***, reported in **(2007) 11 SCC 632**. In Para 5 of the said judgment, Hon’ble Apex Court has held as follows:

5. *We have heard learned counsel for the parties. It was argued by learned counsel for the respondent that when a retrospective promotion is given to an incumbent normally he is entitled to all benefits flowing therefrom. However, this Court in the case of [State of Haryana & Ors. v. D.P. Gupta & Ors.](#), [1996] 7 SCC 533 and followed in the case of [A.K. Soumini v. State Bank of Travancore JT](#) (2003) 8 SC 35 has taken the view that even in case of a notional promotion from retrospective date, it cannot entitle the employee to arrears of salary as the incumbent has not worked in the promotional post. These decisions relied on the principle of no work no pay. The learned Division Bench in the impugned judgment has placed reliance on the case of [State of Andhra Pradesh v. K.V.L. Narasimha Rao & Ors.](#), (1999) 3 SC 205. In our view, the High Court did not examine that case in detail. In fact, in the said judgment the view taken by the High Court of grant of salary was set aside by this Court. Therefore, we are of the view that in the light of the consistent view taken by this Court in the abovementioned cases, arrears of salary cannot be granted to the respondent in view of the principle of no work no pay in case of retrospective promotion. Consequently, we allow this appeal and set aside the impugned order of the High Court dated 17.5.2000 passed by the Division Bench of the High Court as also the order dated 11.1.2000 passed by the Central Administrative Tribunal, Principle Bench.”*

14. This Court taking into account the submissions made and the materials available on record as well as placing reliance on the decision of the Hon'ble Apex Court as cited supra finds that learned Tribunal without proper appreciation of the petitioner's claim vis-à-vis the acceptance of his resignation refused to entertain the Original Application. Learned Tribunal though while dealing with the matter came to a finding that the applicant prior to his taking up his job as Junior Clerk in the Office of Opposite Party No.2 had applied for the Clerk Grade Examination notified through the Staff Selection Commission in the year 1980 and there is no scope on the part of the petitioner to make any such application through proper channel, but taking into account the fact that the resignation tendered by the petitioner being a resignation simplicitor and the relieving order issued by the Registrar, Civil Courts, Puri since does not whisper a single word for the purpose for which the resignation has been accepted, the said resignation cannot be treated to have been tendered for any administrative need. The view

expressed by the learned Tribunal in Para 13 of the impugned order is reproduced herein.

“13. Admittedly, applicant prior to his taking up the job as Junior Clerk in the office of Respondent No.3 had applied for the Clerk Grade Examination notified through the Staff Selection Commission in the year 1990. Therefore, there was no scope for him to make any such application through proper channel. On being nominated by the Staff Selection Commission, he was appointed as Clerk under the Respondent Nos.1 and 2. This is the reason why applicant had to tender his resignation from the pervious employer. Resignation letter, as quoted above, clearly speaks out the reason behind such resignation. However, the fact remains, the relieving order nowhere does whisper a single word the purpose for which resignation had been accepted. Therefore, the resignation tendered by the applicant is a resignation simplicitor which has no bearing that such a resignation had been tendered in the administrative interest as obviously, there was no administrative need requiring the applicant to tender his resignation. Applicant, had deposited one month's salary for the purpose of acceptance of his resignation. Therefore, by no stretch of imagination it can be said that the resignation tendered by the applicant was due to administrative need.

15. This Court is of the view that the grounds taken by the learned Tribunal while dismissing the Original Application is not legally sustainable as the order passed initially vide Memorandum dated 04.09.2009 is not supported by any reason whatsoever. This Court is also not inclined to accept the submission made by the learned counsel appearing for Opposite Party No.2 that since the

resignation tendered by the petitioner is not a technical resignation, in view of guideline contained in F.R-22, the same cannot be accepted. Since the resignation tendered by the petitioner has been duly accepted by the Registrar, Civil Courts, Puri, the ground on which the

prayer was rejected vide Memorandum dated 04.09.2009 and thereafter by the learned Tribunal vide the impugned order dated 09.07.2014, cannot sustain in the eye of law. Accordingly, while quashing both the orders, this Court directs Opposite Party No.2 to treat the period of service of the petitioner from 12.12.1990 to 06.03.1993 as qualifying service and extend the benefit as due admissible.

16. The Writ Petition is allowed with the aforesaid observation.

**(B.P. SATAPATHY)
JUDGE**

DR. B.R. SARANGI, J.

I agree.

**(DR. B.R. SARANGI)
JUDGE**