

IN THE HIGH COURT OF ORISSA AT CUTTACK

RVWPET No. 28 of 2022

Bani Bhusan Dash

.....

Petitioner

Mr. R. Ray, Advocate

Vs.

State of Odisha and others

.....

Opposite parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

28.11.2022

Order No.

01

This matter is taken up through hybrid mode.

2. Heard R. Ray, learned counsel for the petitioner and Mr. A.K. Mishra, learned Additional Government Advocate.

3. This petition has been filed for review of the judgment dated 28.10.2021 passed in W.P.(C) No. 7635 of 2019.

4. Mr. R. Ray, learned counsel for the petitioner contended that though three punishments have been imposed on the petitioner, but learned counsel appearing for the petitioner had conceded to punishment no.1 so far as stoppage of one increment without any cumulative effect is concerned, but so far as other two punishments are concerned, this Court quashed such punishments. Therefore, it is contended that even though the counsel for the petitioner conceded the 1st prayer, that itself cannot sustain in the eye of law.

5. Mr. A.K. Mishra, learned Additional Government Advocate contended that it is not the concession which learned counsel for the petitioner given when the matter was heard, but, the fact remains, the counsel appearing for the petitioner made a statement which has been recorded in paragraph-4 of the judgment that the order of punishment imposed by opposite party no.2 vide order dated 15.09.2018 in Annexure-8 so far as the 1st punishment of stoppage

of one increment without any cumulative effect is concerned, the petitioner has no grievance, as the same has already been implemented. Therefore, it is not the question of concession given by learned counsel for the petitioner, rather, since the petitioner had already visited with the punishment, there is no question of consideration, which has been stated by learned counsel for the petitioner.

6. Having heard learned counsel for the parties and after going through the records, it appears that against the order of punishment imposed by the authority dated 15.09.2018 in Annexure-8 to the writ petition, the petitioner had approached this Court by filing writ petition. After due adjudication during course of hearing, learned counsel appearing for the petitioner stated that since 1st punishment of stoppage of one increment without any cumulative effect is concerned, the petitioner has no grievance, as the same has already been implemented. Thereby, this Court proceeded with the validity of 2nd and 3rd punishment imposed vide order dated 15.09.2018 and quashed the same. Now subsequently, with the change of lawyer, the petitioner cannot agitate the same thing saying that punishment no.1 should be considered once again by filing the present review petition. As such, there is no error apparent on the face of record, nor any case is made out to file the review petition by the petitioner so as to adjudicate the same afresh, when the petitioner has already visited with the punishment no.1 so far as stoppage of one increment without any cumulative effect is concerned. Needless to say that when one counsel argued the matter and on that basis the judgment has been passed, subsequently by engaging some other counsel, who had no idea about the argument advanced at that point of time, at his instance, the review cannot be entertained. More so, the grounds for review having not been made out, this Court is not inclined to entertain the review petition and as such, the review petition is accordingly dismissed.