

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 7004 of 2019

<i>State of Odisha and others</i>		<i>Petitioners</i> <i>Mr. B.P. Tripathy, AGA</i>
	Vs.	
<i>Jyoti Prakash Padhi</i>		<i>Opposite Party</i> <i>Mr. G. Sinha, Advocate</i>

CORAM:

**DR. JUSTICE B.R. SARANGI
MISS JUSTICE SAVITRI RATHO**

ORDER

11.04.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. Heard Mr. B.P. Tripathy, learned Additional Government Advocate for the State-petitioners and Mr. G. Sinha, learned counsel for the opposite party.

3. The State-petitioners have filed this writ petition assailing the order dated 29.06.2017 passed by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 856 (C) of 2014 by which the tribunal quashed the punishment imposed against the opposite party; and directed the state-petitioners to treat the period of suspension, i.e. from 24.08.2006 to 04.02.2007 as duty; and to complete the entire exercise within a period of four months from the date of receipt of the order.

4. Mr. B.P. Tripathy, learned Additional Government Advocate contended that if the inquiring authority has given suggestion and the disciplinary authority has differed from the suggestion given by the inquiring officer, he has to assign the reason and the same having not been done, the matter could have been remitted to that stage, giving opportunity to the authorities to

proceeding in accordance with law. But the Tribunal has committed an error in not doing so. Therefore, the same needs interference by this Court.

5. Mr. G. Sinha, learned counsel for the opposite party contended that though the order of the tribunal was passed on 29.06.2017, the State-petitioners have preferred the present writ petition only on 28.03.2019, i.e. after a long lapse of one year and nine months. Therefore, the same suffers from delay and laches. Otherwise also, the order of the tribunal has already been complied with by giving promotion to the opposite party and as such he has retired from service on attaining the age of superannuation on 31.07.2021, however the period of suspension has not been regularized. Therefore, he prays that the opposite party should regularize such period in terms of the direction of the tribunal and extend all financial benefits including pensionary benefit in favour of the opposite party as due and admissible to him in accordance with law.

6. Having heard learned counsel for the parties and after going through the records, since the inquiring officer has given his suggestion and the disciplinary authority has not accepted such suggestion and wants to differ from the same, he has to assign the reason before taking any decision for imposition of penalty against the opposite party. Thereby gross procedural irregularities have been committed. Accordingly, the tribunal has quashed the disciplinary proceeding and directed to treat the period from 24.08.2006 to 04.02.2007 as duty and further directed that the opposite party is entitled to get all consequential service and financial benefits, which was to be extended within a period of

four months from the date of receipt of the order.

7. In the meantime, in compliance to the direction of the tribunal, the opposite party was extended with promotion and while he was so continuing, he retired from service on attaining the age of superannuation. Thereby, the order of the tribunal has already been implemented by the authority except treating the period from 24.08.2006 to 04.02.2007 as duty.

8. In view of the above, at this stage, this Court is not inclined to interfere with the order passed by the Tribunal. As a consequence thereof, the petitioners are directed to implement the order passed by the tribunal forthwith.

9. The writ petition is accordingly disposed of.

Arun/ Bichi



(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE