

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 13447 of 2014

Saraja Tripathy & Anr.

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Petitioner

Mr. G.C. Swain, Advocate

Vs.

***Principal Chief Conservator
of Forest & Ors.***

.....

Opposite parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

16.03.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. G.C. Swain, learned counsel for the petitioners and Mr. P.P. Mohanty, learned Additional Government Advocate.

3. The petitioner has filed this writ petition challenging the order dated 02.11.2010 passed by the Odisha Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.2168 (C) of 1995, by which the tribunal has declined to interfere with the report of enquiring officer, the order of disciplinary authority or with the order of the appellant authority, and dismissed the said O.A.

4. Mr. G.C. Swain, learned counsel for the petitioners contended that the deceased employee, who has husband of petitioner no.1, was not supplied with enquiry report before issuance of notice of proposed punishment. Therefore, the order of punishment imposed by the

disciplinary authority, which has been confirmed by the appellate authority cannot sustain in the eye of law.

5. Mr. P.P. Mohanty, learned Additional Government Advocate contended that failure to supply the enquiry report to the delinquent employee would not ipso facto result in the proceeding being declared as null and void, and the order of penalty as nonest and ineffective. It is further contended that the delinquent was given all opportunities of being heard and the enquiry was conducted in his presence. Therefore, the tribunal has not committed any error in passing the impugned order stating not to interfere with the report of the enquiry officer and the order of disciplinary authority or with the order of appellate authority.

6. Having heard learned counsel for the parties and after going through the records, it appears that the delinquent employee was faced with disciplinary proceeding. As a consequence thereof, enquiry was conducted and it was found that the delinquent employee was given all opportunities of being heard and the enquiry was conducted in his presence. Considering all the facts and circumstances and the enquiry report etc. the delinquent employee was imposed with penalty by the disciplinary authority and the same has been confirmed by the appellate authority. In ***Union of India v. Alok Kumar***, 2010(3) AISLJ 1, the apex Court held that real prejudice should be pleaded and proved. Further, in ***Hariyana Finance Corporation v. Kailash***

Chandra Ahuja, 2008(9) SCC 31, the apex Court held that failure to supply a report of enquiry to the delinquent employee would not ipso facto result in the proceeding being declared as null and void and the order of penalty as nonest and ineffective. Applying the said principle to the present context, it appears that the delinquent employee is in no way prejudiced in conduct of the enquiry or imposition of penalty. The penalty is quite reasonable and not at all disproportionate with the misconduct. Thereby, the tribunal held that the order passed by the disciplinary authority, which has been confirmed by the appellate authority, need not required to be interfered with. Therefore, no illegality or irregularity has been committed by the tribunal in passing the order impugned. More so, the writ petition has been filed in the year 2014 against the order dated 02.11.2010 passed by the tribunal in O.A. No.2168 (C) of 1995. Otherwise also the writ petition suffers from delay and laches. Therefore, this Court is not inclined to entertain the writ petition. Accordingly, the same is dismissed.

Alok

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(DR. B.R. SARANGI)
JUDGE

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(SAVITRI RATHO)
JUDGE