

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No. 21013 of 2014**

***General Manager (H & A),  
C.L. Patra, National  
Aluminium Company Ltd.,  
Koraput***

.....

*Petitioner*

*Mr. M.K. Mishra, Sr. Advocate  
along with Mr. S. Senapati, AGA*

Vs.

***Suresh Chandra Sahu & Ors.***

.....

***Opposite parties***  
*Mr. P.K. Parhi, ASGI  
(O.P.1)*

**CORAM:**

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

**ORDER**

**06.05.2022**

**Order No.**

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This matter is taken up through hybrid mode.

2. Heard Mr. M.K. Mishra, learned Senior Counsel appearing along with Mr. S. Senapati, learned counsel for the petitioner.

3. Though notices were issued to opposite parties no.1 & 3 to 5, vide order dated 13.11.2014, and A.Ds have returned after valid service, none enters appearance for the opposite parties.

4. The petitioner-National Aluminium Company has filed this writ petition seeking to quash the order dated 23.07.2014 passed in O.A. No.705 of 2011, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack has quashed the order dated 06.07.2011 suspending the opposite party no.1 and directed the petitioner to regularize the period of suspension of opposite party no.1 from 10.01.2008 to 12.12.2008 and grant him all consequential service and financial benefits consequent upon regularization of the period.

5. Mr. M.K. Mishra, learned Senior Counsel appearing along with Mr. S. Senapati, learned counsel for the petitioner

vehemently contended that the order of suspension cannot be found fault with because it was passed in terms of the certified standing order applicable to opposite party no.1. As such, opposite party no.1 had not challenged the order of suspension alleging any violation of the conditions stipulated in standing order itself. But fact remains, since opposite party no.1 was involved in a criminal case, he was placed under suspension, but subsequently on a compromise the dispute between opposite party no.1 and his wife ended and the proceeding was quashed and both of them are remaining together. If the suspension order was made for involvement of opposite party no.1 in a criminal case, he is not entitled to get any benefit, as directed by the tribunal in the order impugned.

6. Perused the records. It appears that opposite party no.1, who was the applicant before the tribunal, was appointed as a Junior Maintenance-cum- Operation Trainee vide order dated 19.08.2000. After completion of training of one and half years, he was regularized as Operator Grade-III, vide order dated 19.02.2002. He was further promoted to Operator Grade-II on 01.07.2005 and to Operator Grade-I on 01.07.2010. While working as such, the wife of opposite party no.1 lodged an F.I.R. in Damanjodi Police Station against him and accordingly Damanjodi P.S. Case No.6 of 2008 was registered against him under Sections 498-A, 506, 406, 34 IPC read with Section 4 of D.P. Act. Ultimately, he was arrested by the I.I.C., Damanjodi Police Station on 10.01.2008 and forwarded to the Court of S.D.J.M., Koraput and thereafter, he was sent to jail custody. The Inspector-in-Charge of Damanjodi Police Station, vide his letter dated 11.01.2008, intimated the Executive Director, NALCO, Damanjodi that opposite party no.1 was arrested on 10.01.2008 at 7.00 a.m. and forwarded to the Court of

S.D.J.M., Koraput on that day. After 10.01.2008, he was in jail custody at Special Jail, Koraput. On receiving the letter of IIC, Damanjodi Police Station, opposite party no.1 was placed under suspension with effect from 10.01.2008 as per the provisions of certified standing order of NALCO, and he was allowed subsistence allowance at the rate of 50% and thereafter three fourth subsistence allowance. While opposite party no.1 was under suspension, he submitted a representation to the authorities for revocation of his suspension order. After considering his representation, the authorities revoked the order of suspension, vide order dated 13.12.2008, with immediate effect pending disposal of the criminal case. Thereby, during the period of suspension from 10.01.2008 to 13.12.2008 opposite party no.1 had not rendered service, but he received subsistence allowance as per the provisions of certified standing order of NALCO.

7. So far as the validity of the suspension order is concerned, the same was passed as per the provisions of the certified standing order of NALCO, and as such, opposite party no.1 had not challenged the order of suspension. Opposite party no.1, having involved in a criminal case bearing G.R. Case No.17 of 2008, was remained in custody during the period of suspension from 10.01.2008 to 13.12.2008. Subsequently, the proceeding in G.R. Case No. 17 of 2008, arising out of Damanjodi P.S. Case No. 6 of 2008, under Sections 498-A, 506, 406, 34 IPC read with Section 4 of D.P. Act was quashed, vide order dated 28.01.2011 passed by this Court in CRLMC No. 1214 of 2010 relying upon the judgment of the apex Court in *B.S. Joshi & Others Vs. State of Haryana & Another*: (2003) 25 OCR (SC) 99. Opposite party no.1 requested to release all his pending benefits for the period of suspension and

to treat the period of suspension as duty. Once the criminal case institution against opposite party no.1 has been quashed, he is to be treated as regular employee of the petitioner. Therefore, the period of suspension should be regularized and accordingly, the tribunal, vide order dated 23.07.2014, while quashing the order dated 06.07.2011, directed the petitioner to regularize the period of suspension from 10.01.2008 to 13.12.2008 and to grant opposite party no.1 all consequential service and financial benefits.

7. In that view of the matter, this Court does not find any error in the order dated 23.07.2014 passed by the tribunal in O.A. No.705 of 2011, so as to cause interference of this Court. Consequentially, this Court directs the petitioner to comply with the order passed by the tribunal as expeditiously as possible, preferably within a period of three months from the date of communication/production of the certified copy of this order.

8. Accordingly, the writ petition merits no consideration and the same is hereby dismissed.

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

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(**SAVITRI RATHO**)  
JUDGE