

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 4240 of 2013

Sudhir Kumar Rout

.....

Petitioner

Mr. A. Behera, Advocate

Vs.

State of Odisha & Others

.....

Opposite parties

Mr. S.N. Nayak, A.G.A.

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

22.03.2022

Order No.

05.

This matter is taken up through hybrid mode.

2. Heard Mr. A. Behera, learned counsel for the petitioner and Mr. J.P. Patnaik, learned Government Advocate for the State.

3. The petitioner has filed this writ petition challenging the order dated 22.01.2013 passed in O.A. No.559 of 2011, by which the Odisha Administrative Tribunal, Bhubaneswar has remitted the matter back to the authority concerned for appropriate action as per law.

4. Mr. A. Behera, learned counsel for the petitioner contended that since proceeding was initiated against the petitioner and minor penalty was imposed on him, enquiry is not necessary. It is contended that in case of imposition of major penalty, enquiry is necessary as per rule. But the tribunal has passed the impugned order dated 22.01.2013 remitting the matter back to the authorities concerned, for appropriate action as per law, who shall be at liberty to either resume enquiry or drop the enquiry at their discretion. If enquiry is conducted, it

will be gross violation of Rule-16 of OCS (CCA) Rules, 1962.

5. Mr. S.N. Nayak, learned Additional Standing Counsel for the State contended that the order of the tribunal is very clear and specific. Once the matter has been remitted back to the authorities for appropriate action as per law, if the authorities decide to conduct enquiry, they either resume enquiry or drop the enquiry at their discretion. Thereby, there is no error apparent in the order dated 22.01.2013 passed by the tribunal in O.A. No.559 of 2011 so as to warrant interference of this Court.

6. Having heard learned counsel for the parties and after going through the records, it appears that the authorities have imposed minor penalty as per procedure envisaged under Rule 16 of the OCS (CCA) Rules. Thereby, the tribunal has remitted the matter back to the authorities for appropriate action as per law, which cannot be said found faulted with. So far as enquiry part is concerned, the tribunal has given liberty to the authorities either to resume enquiry or drop the enquiry at their discretion. Thereby, question of imposition of major penalty does not arise at this stage.

7. Therefore, the tribunal has not committed any error in passing the order impugned dated 22.01.2013 in O.A. No.559 of 2011 so as to warrant interference of this Court. Accordingly, the writ petition merits no consideration and the same is dismissed.

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(DR. B.R. SARANGI)
JUDGE

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(SAVITRI RATHO)
JUDGE

