

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 6809 of 2018

Debashis Ghosh

.....

Petitioner
Mr. S.K. Ojha, Adv.

Vs.

Union of India and others

.....

Opposite Parties
*Mr. S. Swain, Sr. Panel Counsel,
Govt. of India*

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

21.12.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. Heard Mr. S.K. Ojha, learned counsel for the petitioner and Mr. S. Swain, learned Senior Panel Counsel, Govt. of India appearing for the opposite parties.

3. The petitioner has filed this writ petition challenging the order dated 09.07.2012 passed by the authority under Annexure-8 and the order dated 16.02.2018 passed in O.A. No. 903 of 2012 under Annexure-14, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack has dismissed the original application filed by the petitioner, being devoid of merit.

4. Mr. S.K. Ojha, learned counsel for the petitioner, at the outset, contended that though the judgment was reserved by the tribunal on 02.01.2018, but the same was pronounced on 16.02.2018, which is in gross violation of the rules governing the field. It is contended that since the judgment was passed on 16.02.2018 beyond the time limit prescribed under Section 105 (b) of the C.A.T. Rules of Practice 1993, the same cannot be sustained in the eye of law. To substantiate his contention, he has relied upon the judgment of this Court in the case of **Nityananda Barik v. Union of India** (W.P.(C) No. 16659 of 2014 disposed of on

05.05.2022).

5. Mr. S. Swain, learned Senior Panel Counsel, Govt. of India appearing for the opposite parties states that the judgment relied upon by the petitioner, which is with regard to delay in disposal of the original application, may have application, but he wants to verify the actual date of reserve and delivery of judgment.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner has filed an affidavit, paragraph-2 thereof reads as under:-

“2. That the learned Tribunal after hearing both sides reserved the order on 02.01.2018 and passed the final order on 16.02.2018 after a period of more than one month. Statutory provision has been made under sub-rule(a) of rule 105 of the CAT Rules and Practice, 1993 indicating that when the orders are reserved, the date for pronouncement not later than three weeks shall be fixed. In this context, it is humbly submitted that his Hon’ble Court while deciding the case of Nityananda Barik v. UOI & Ors. has held that the order beyond the prescribed period is contrary to the aforesaid provision and thereby the impugned order of the Tribunal cannot sustain in the eye of law for which needs fresh consideration of the learned Tribunal. Lapse of long time in delivering the decision caused serious prejudice to the petitioner which can be witnessed from the decision of the learned Tribunal. In view of the position, the learned Tribunal lost sight of all the submissions made at the time of hearing and only quoting the pleadings of the parties disposed of the matter.”

7. In view of the above, this Court finds that admittedly the tribunal heard the matter and reserved the same on 02.01.2018 and pronounced the judgment on 16.02.2018, that is to say beyond the time limit prescribed under Rule 105 (b) of the C.A.T. Rules of Practice 1993, wherein it has specifically prescribed that the order shall be pronounced within three weeks from the date of reserve. This question is no more *res integra* in view of the judgment passed by this Court in the case of **Nityananda Barik v. Union of**

India (W.P.(C) No. 16659 of 2014 disposed of on 05.05.2022). Therefore, since there is non-compliance of the provisions contained under Rule 105 (b) of the C.A.T. Rules of Practice 1993 in delivering the order dated 16.02.2018 in O.A. No. 903 of 2012 under Annexure-14, the same cannot be sustained in the eye of law and is liable to be quashed and hereby quashed. The matter is remitted back to the Central Administrative Tribunal, Cuttack Bench, Cuttack for its fresh disposal by giving opportunity of hearing to all the parties. It is made clear that this Court has not expressed any opinion on the merits of the case.

8. The writ petition is accordingly disposed of.

Issue urgent certified copy as per rules.

Ashok



(DR. B.R. SARANGI)
JUDGE

(B.P. SATAPATHY)
JUDGE