

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12492 of 2021

Satyanarayan Dash

.....

Petitioner

Ms. S. Mohapatra, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

Mr. G. Rout, ASC

CORAM:

MR. JUSTICE SANJAY KUMAR MISHRA

ORDER

30.08.2022

I.A. No.17194 of 2021 and W.P.(C) No.12492 of 2021

Order No.

07.

This matter is taken up through hybrid mode.

2. In the present Writ Petition, the Petitioner has prayed to quash the Disciplinary Proceeding bearing Prog. No.01/2016, as per the Enquiry Report, dated 16.04.2018 under Annexure-4.

3. During pendency of the present Writ Petition, I.A. No.17194 of 2021 has been filed by the Petitioner praying therein to direct the Opposite Party No.2 to release the increments from 2016 to 2021 in his favour, to which an objection has been filed by the Opposite Parties opposing to the said prayer made in the I.A.

3. Pursuant to the said objection filed by the Opposite Parties-State, the Petitioner has filed an Additional Affidavit on 11.04.2022 enclosing thereto communication dated 28.02.2019 made by the A.I.G. of

Police (Personnel), Odisha, Cuttack, addressed to the Superintendent of Police, Puri, pertaining to a similarly placed employee/ASI, namely, ASI/713 Santosh Kumar Sahoo, clarifying therein as follows:

“Pending finalization of departmental proceeding against ASI/713 Santosh Kumar Sahoo of your district, his annual increment may be allowed by calculating for date of next increment in that time scale, after adding the full suspension period with the normal date of increment i.e. by shifting the date of increment with the period of suspension. In this connection, rule 79 of Odisha Service Code may be followed.”

4. In view of such communication, as at Annexure-5, appended to the Additional Affidavit, learned Counsel for the State sought for time to take instruction and produced before this Court the communication dated 11.07.2022 of I.G. of Police (Communication), Odisha, Cuttack, addressed to the Additional Government Advocate, Office of the Advocate General, Odisha, Cuttack, which reads as follows:

“ In inviting the letter under reference this is to intimate that the prayer application of Sri. Satyanarayan Dash for releasing Annual Increment pending finalization of signal Estt. Department Proceeding No.01/ 2018 was then rejected by the Additional D.G of Police, Communication because of the fact that by that time State Police Hdqrs. letter no.9182/Pers-I dtd.28.02.2019 allowing increment in case of ASI/713 Santosh Kumar Sahoo was not received at the Range Office. In the later part ASI (Commn.) Surya Prasad Tripathy against whom Signals Estt. Proceeding No.02/2018 is outstanding

had prayed with enclosing the above said State Police Hdqrs. letter for releasing his annual Increment as cited above.

Therefore, at the present stage there is no obstacle to release the annual Increment of Shri. Dash by calculating for the date next increment in that time scale, after adding the full suspension period, if any with the normal date of increment. In this regard necessary steps shall be taken to advice SP Signals for releasing his annual increment as per SP Hdqrs. letter No. 9182/Pers-I dated 28.02.2019, subject to the Hon'ble Court granting such liberty.

Further, this is to intimate that the prayer of the petitioner in W.P.(C) Case No.12492/2021 is to quash the disciplinary proceeding bearing the Prog. No.1/2016 cannot be acceded to, owing to facts narrated in the enquiry report dated 16.04.2018 under Annexure-4 of the said writ. The fact is that Signals Estt. Prog. No. 1/2016 has been drawn up against Shri Dash on the basis of his involvement in CID PS Case No.10 dated 15.03.2015 U/s 406/409/34/120-B IPC. The same criminal case is also Sub-judice before the Hon'ble Court of law. Hence the final report of the said departmental proceeding is held up which mutatis mutandis depends upon the judgment in the criminal case.

This is for favour of kind information and necessary action please."

5. In view of such communication made by the I.G. of Police (Communication), Odisha, Cuttack, learned Counsel for the Petitioner fairly makes a submission that the Writ Petition be disposed of in terms of the said communication giving liberty to the Petitioner to

approach this Court afresh, if any further cause of action arises in future.

6. The Authority concerned is directed to take necessary steps for release of the annual increment of the Petitioner for the period from 2016 to 2021 in terms of the decision taken in respect of ASI/713 Mr. Santosh Kumar Sahoo, so also the communication dated 11.07.2022 made by the I.G. of Police (Communication) Odisha, Cuttack, to the Office of the Advocate General within a period of six weeks from the date of communication of the certified copy of this Order.

7. Accordingly, with liberty as prayer for, the I.A. as well as Writ Petition stand disposed of.

(S.K. MISHRA)
JUDGE

Banita/Padma

