

IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLMC No.1244 of 2022

Akshaya Kumar Pattanaik

....

Petitioner

Mr. Piyush Kumar Mishra, Advocate

-Versus-

State of Orissa and others

....

Opposite Parties

Mr. Sitikanta Mishra, Advocate

CORAM:

MR. JUSTICE R.K. PATTANAİK

ORDER

28.11.2022

Order No.

03.

1. Heard learned counsel for the respective parties.
2. The challenge is as to the criminal proceeding in connection with Capital P.S. Case No.527 of 2015 corresponding to C.T. Case No.5895 of 2015 pending in the court of learned S.D.J.M., Bhubaneswar, Khurda on the ground that disciplinary proceeding initiated against the petitioner has been dropped vide Annexure-6 which was followed by an enquiry and recommendation dated 6th November, 2021 holding that the misconduct though punishable but censured on the ground of delay in disposal of such disciplinary action since pending for more than 20 years.
3. Learned counsel for the petitioner submits that the disciplinary proceeding was initiated in the year 2000 and ultimately it ended with the conclusion that there is no pecuniary loss to the Govt. & defalcation by fake order, inasmuch as, the petitioner suffered a much and subjected to unnecessary harassment due to the pendency of departmental disciplinary proceeding for so long. It is submitted that on account of delay in disposal of

departmental disciplinary proceeding which pending for more than 20 years old, penalty of censure was imposed.

4. Considering the enquiry report and closure of the disciplinary proceeding, learned counsel for the petitioner submits that the criminal proceeding which is pending before the learned court below should be quashed for the fact that the allegations against the petitioner as revealed from the FIR was lodged in the year 2015 and as on date, only charge has been framed which was in 2016 languishing for trial since then.

5. Mr. Praharaj, learned Standing Counsel for the State submits that notwithstanding the disciplinary proceeding against the petitioner, the criminal proceeding in C.T. Case No.5895 of 2015 pending before the learned court below cannot be quashed nevertheless there has been a delay in lodging of the report. An attempt is made by Mr. Praharaj, learned counsel for the State to explain the delay and the circumstances leading to the lodging of the FIR. A copy of the enquiry report is at Annexure-6, which is perused by this Court.

6. After enquiry, recommendation was made and disciplinary proceeding was concluded with a minor penalty 'censure' against the petitioner with an observation that there has been no pecuniary loss to the Government and the petitioner was subjected to unnecessary harassment due to the disciplinary action and thereby denied of receiving his legitimate service benefits.

7. No doubt, there has been delay in commencement of trial, inasmuch as, the charge was framed on 18th June, 2016, as claimed by the petitioner. The Court is of the view that on such a ground, quashing of the criminal proceeding pending before the learned District Judge, Bhubaneswar cannot be allowed.

8. Without expressing anything on the merits of the case vis-à-vis the petitioner, the Court is of the view that despite delay in

lodging of the FIR and closure of disciplinary proceeding with minor penalty, the criminal proceeding in C.T. Case No.5895 of 2015 arising out of Capital P.S. Case No.527 of 2015 pending before the learned S.D.J.M., Bhubaneswar cannot be quashed. However at the same time, the Court is of the opinion that a target for the commencement of the trial and its closure should be set since in the meantime 7-8 years have already elapsed. Accordingly, this Court directs the learned S.D.J.M., Bhubaneswar in C.T. Case No.5895 of 2015 to expedite the commencement of the trial and ensure its completion as early as possible preferably within a period of six months from the date of receipt of certified copy of this order.

9. With the above direction, the CRLMC stands disposed of.
10. Issue urgent certified copy of this order on proper application.
11. A copy of this order be sent to the learned court below for compliance of the same.

(R.K. Pattanaik)
Judge