

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

**W.P.(C) No.30453 of 2011**

***Sailendra Narayan Barik*** ..... ***Petitioner***  
Mr.Satyabrata Mohanty, Advocate  
-versus-  
***Union of India and others*** ..... ***Opp. Parties***  
Mr. P.K. Parhi, ASGI

**CORAM:  
THE CHIEF JUSTICE  
JUSTICE R.K.PATTANAIAK**

**Order No.**

**ORDER  
28.03.2022**

06. 1. The challenge in the present petition is to an order dated 15<sup>th</sup> September, 2011 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack (CAT) in M.A. No.277 of 2005 arising out of O.A. No.630 of 2003 granting the Department extension of six months time for completion of the disciplinary enquiry against the present Petitioner.
2. At the outset, it requires to be noticed that by an interim order dated 12<sup>th</sup> December, 2011 this Court stayed the impugned order of the CAT.
3. This petition has a chequered history. The Petitioner started as a Clerk in the Post & Telecom Audit Office, Cuttack on 3<sup>rd</sup> November, 1971 as a Scheduled Caste (SC) candidate and furnished in support thereof a caste certificate issued by the SDO, Kendrapara on 22<sup>nd</sup> May, 1970. Apparently, at the instance of the Respondents, he submitted another caste certificate issued by the Collector, Cuttack on 30<sup>th</sup> August, 1972.

4. The Petitioner sought Voluntary Retirement from Service (VRS) with effect from 15<sup>th</sup> September, 2003. Two months prior thereto, on 4<sup>th</sup> July, 2003 the Department framed a charge sheet against the Petitioner alleging that he did not belong to the SC and that had furnished a false caste certificate. This was challenged by the Petitioner by filing O.A. No.630 of 2003 before the CAT. The said application was disposed of on 19<sup>th</sup> January, 2005 granting the Department four months time to conclude the enquiry. When the enquiry was not concluded within four months, the Department filed M.A. No.277 of 2005 praying for extension of time. This application was decided by the CAT ex parte order by an order dated 26<sup>th</sup> July, 2005 granting the Department six months' time to complete the enquiry.

5. Since the said order had been passed by the CAT without hearing the Petitioner, he filed W.P.(C) No. 10469 of 2005 before this Court. By an order dated 23<sup>rd</sup> September 2005, the order dated 26<sup>th</sup> July, 2005 of the CAT was quashed by this Court and M.A. No.277 of 2005 was remanded to the CAT for a fresh decision.

6. It appears that unmindful of this development, the Department went ahead and passed an order on 23<sup>rd</sup> November, 2005 inflicting the punishment of forfeiture of retirement gratuity and 100% cut on the pension of the Petitioner. This order was obviously not legally sustainable since the order of the CAT dated 26<sup>th</sup> July 2005 granting six months extension to the Department to conclude the enquiry had itself been set aside by this Court.

7. For some reason, the CAT took six years to decide M.A. No.277 of 2005 and by the impugned order dated 15<sup>th</sup> September, 2011 it granted the Department six months more time to complete the proceeding initiated against the Petitioner. The effect of the impugned order of the CAT is to legalise the order dated 23<sup>rd</sup> November, 2005 passed by the Department. However, for the reasons already explained that order is unsustainable in law.

8. The Petitioner is today over 77 years old and the Court sees little purpose would be served in allowing the Department to now hold an enquiry against the Petitioner. That would not be in the interests of justice. As a result of the interim order passed by this Court, there has been no progress in the matter. Keeping in view the above all factors, the impugned order of the CAT is hereby quashed.

9. The retiral benefits of the Petitioner will now be released to him without any delay and in any event, not later than 1<sup>st</sup> June, 2022.

10. The writ petition is disposed of in the above terms.

***(Dr. S. Muralidhar)***  
***Chief Justice***

***(R.K. Pattanaik)***  
***Judge***

KC Bisoi