

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.16257 of 2022

Bharat Chandra Bhoi **Petitioner**

-versus-

**Addl. Chief Secy. to Govt. of Opposite Parties
Odisha & Others**

COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
29.09.2022

Order No

04. 1. This matter is taken up through Hybrid Mode.

2. Heard Mr. R.K.Satapathy, learned counsel for the Petitioner and Mr. A.P.Das, learned Addl. Standing Counsel for the State- Opposite Parties.

3. The present Writ Petition has been filed challenging the order dated 12.02.2020 passed by the Chief District Agriculture Officer, Bargarh-Opposite Party No.3 under Annexure-5 in reducing the subsistence allowance from 50% to 25%.

4. It is submitted that the Petitioner on being placed under suspension vide order dated 18.07.2018, he was allowed to the subsistence allowance @ 50% of the last pay drawn and all on sudden, the same was reduced to 25% vide the impugned order at Annexure-5.

5. It is also submitted that even though the Petitioner is continuing under suspension since 18.07.2018 and two numbers of proceedings were initiated against him, but no step is being taken to reinstate the Petitioner pending finalization of the said proceedings.

6. A counter affidavit is filed in Court today by the Opposite Party No.3 and in the said counter, it has been indicated that the subsistence allowance was reduced to 25% vide the impugned order as the Petitioner did not participate in the enquiry by filing written statement of defence. The grounds so taken by the Opposite Party No.3 is not acceptable to the Court as in absence of the written statement of defence being filed by the delinquent employee within the time stipulated, the disciplinary authority is free to proceed with the enquiry and conclude the proceeding. Therefore, the reason assigned by the Opposite Party No.3 in the counter for reducing the subsistence allowance to 25% is not legal and justified.

7. Therefore, this Court while interfering with the impugned order at Annexure-5, quash the same and direct the Opposite Party No.3 to release the subsistence allowance @ 50% as the Petitioner was earlier getting prior to such order. The differential amount towards subsistence allowance from the date of passing of the impugned order till date be sanctioned and released in favour of the Petitioner within a period of one month from the date of receipt of this order.

8. It is however observed that the Petitioner shall cooperate for disposal of the proceedings so initiated against him. It is also observed that on being moved the Opposite Party No.3 shall also take a decision on the question of reinstatement of the petitioner as the petitioner in the meantime has continued under suspension for around four years. If any such application seeking revocation of the order of punishment is moved by the Petitioner within a period of two weeks from today, the said

opposite party shall take a lawful decision on the same within a further period of fifteen (15) days.

9. With the aforesaid observations and directions, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

