

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 20839 of 2015

Sujit Kumar Das

....

Petitioner

Mr. R.N. Mishra-II, Advocate

-versus-

Union of India & Others

....

Opposite Parties

Mr. P.K. Parhi, D.S.G

Mr. S. Panda, C.G.C

CORAM: JUSTICE V. NARASINGH

ORDER

15.09.2022

Order No.

14.

1. This matter is taken up through hybrid mode.
2. Heard Mr. R.N. Mishra-II, learned counsel for the petitioner and Mr. P.K. Parhi, learned DSG and Mr. S. Panda, learned CGC for the Opposite Party-Union of India.
3. The petitioner joined as a constable in the CRPF during the year 2012-13. It is the grievance of the petitioner that while so continuing, by order dated 27.06.2015 his service was terminated invoking the power of sub Rule (1) of Rule 5 of the CCS (Temporary Service) Rules, 1965, read with Rule 16(a) of CRPF Rules, 1955 (Annexure-4) and assailing the same, the petitioner preferred an appeal which was rejected by order dated 12.09.2015 by the Appellate Authority (Annexure-5). The orders passed by the

Commandant and in appeal by the Inspector General are at Annexure-4 & 5 respectively, are the subject matter of challenge in the present Writ Petition.

4. The counter affidavit has been filed on behalf of the Opposite Parties controverting the allegations made.

5. During the course of hearing, it has come to the fore that statutory remedy by way of revision is available to the petitioner in terms of Rule 29 of the CRPF Rules, 1955. Rule 29 (a) & (b) which are germane for adjudication are quoted hereunder.

Rule 29. Revision.-

“(a) A member of the Force whose appeal has been rejected by a competent authority may prefer petition for revision to the next Superior Authority. The power of revision may be exercised only when in consequence of some material irregularity, there has been injustice or miscarriage of justice or fresh evidence is disclosed.

(b) The procedure prescribed for appeals under sub-rules (c) to (g) of rule 28 shall apply mutatis mutandis to petitions for revision.” X x x x

Thus, on a scrutiny of the provisions relating to revision as aforesaid, it is seen that the procedure prescribed for appeals under Rule 28 shall apply mutatis mutandis to the petitions for revision.

6. Rule 28(e) extracted hereunder provides that an appeal is to be preferred within a period of 30 (thirty) days, failing which the same shall be barred by limitation.

Rule 28. Appeal.-

X x x x “(e) An appeal which is not filed within 30 days of the date of the original order, exclusive of the time taken to obtain a copy of the order or record, shall be barred by limitation.

Provided the appellate authority may entertain time barred appeal if deemed fit.”X x x x

7. The proviso have been enacted therein which has vested the power in the Appellate Authority to entertain time barred appeal if deemed fit.

8. In view of Rule 29-(b) making the procedure prescribed for appeals mutatis mutandis applicable to the petitions for revision, the limitation period 30 (thirty) days is also attracted while preferring the revision along with its proviso.

9. Since, admittedly the petitioner has not availed the statutory remedy of revision as envisaged in terms of proviso to Rule 28 read with Rule 29 of the CRPF Rules, 1955, this Court is persuaded to permit the petitioner to avail such remedy as envisaged under Rule 29 of the CRPF Rules, 1955 and accordingly it is so directed. Since the petitioner has been bonafide pursuing the litigation before this Court since 2015, this Court is of the considered view that interest of justice would be subserved, if

liberty is granted to the petitioner to prefer the revision within a period of 30(thirty) days from the date of receipt of certified copy of this order. In the event such revision is preferred within 30 (thirty) days as aforesaid, the Revisional Authority shall do well to consider and dispose of the revision on merits. Keeping in view the powers vested in them by application of the proviso to Rule 28 (e), since the matter is pending in the Court from 2015, the Revisional Authority shall do well to dispose of the revision expeditiously after giving an opportunity of hearing to the petitioner if prayed for, preferably within a period of four months from the date of receipt/production of Revision Petition as directed above.

10. It is needless to state here that this Court has not expressed any opinion on the merits of the contention of the respective parties.

11. The Writ Petition stands disposed of accordingly.

Ayesha

(V. NARASINGH)
Judge