

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

**WPC(OAC) No. 1072 of 2007**

**Kali Kumar Mishra**

....

**Petitioner**

**-versus-**

**State of Odisha & Ors.**

....

**Opposite Parties**

**CORAM:  
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER  
20.12.2022**

**Order No**

- 04.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard Mr. N. Biswal, learned counsel for the Petitioner and Mr. A.P. Das, learned Addl. Standing Counsel appearing for the Opp. Parties.
3. The Petitioner has filed the present writ petition challenging the order under Annexure-4 dtd.06.11.2000 and the subsequent order passed on 28.10.2006 under Annexure-7.
4. It is contended that though the Petitioner was having leave in his account at the relevant point of time, but the Authority concerned when suo moto treated the leave by granting E.L. for 120 days and HPL for 15 days vide order dtd.06.11.2000 under Annexure-4, the Petitioner seeking modification of the same filed a detailed representation before the O.P. No. 1 on 18.03.2006 under Annexure-5. The said Authority without assigning any reason and without considering the grounds taken in the Petition under Annexure-5 as well as Annexure-6 rejected the same by confirming

the order passed earlier on 06.11.2000. It is contended that since the Petitioner had got leave in his account, the action of the Authority in treating a major chunks of the period as E.L. is causing prejudice to him and thereby also caused financial loss.

5. Mr. A.P. Das, learned ASC on the other hand submitted that even though the first order was passed on 06.11.2000, the prayer for modification since was made after around 4½ years, the same is not entertainable and accordingly, the prayer was again rejected rightly vide order at Annexure-7.

6. This Court after going through the materials available on record finds that the Petitioner in his representation under Annexure-5 & 6 while seeking modification of the order dtd.06.11.2000, has clearly stated that since he had got leave on his account to the extent of 120 days, the leave period should not have been treated as earned leave. This Court further finds that the Authority concerned while reconsidering the matter has not taken into consideration that aspect and without assigning any reason whatsoever refused to modify the order.

7. Therefore, in view of the fact that no reason has been assigned while taking a fresh decision, this Court is inclined to quash the order at Annexure-4 as well as the order at Annexure-7. While quashing the same, this Court directs O.P. No. 1 to take a fresh decision on the claim made by the Petitioner under Annexure-5 by giving a personal hearing to the Petitioner. Since it is submitted that the Petitioner has retired from service in the meantime, O.P. No. 1 shall take a decision within a period of one month from the date of receipt of this order. On such reconsideration if it found that the Petitioner had in fact leave in his account during the relevant time,

necessary order be also passed for release of the financial benefit within the above said period.

8. The writ petition is disposed of with the aforesaid observation and direction.

**(Biraja Prasanna Satapathy)**  
**Judge**

*Sneha*

