

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OAC) No. 2683 of 2007

Mathurananda Mall

....

Petitioner

Ms. B. Pattnaik, Adv.

-Versus -

State of Odisha and others

....

Opposite Parties

Mr. H.K. Panigrahi, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

06.01.2022

Order No.
01

This matter is taken up through hybrid mode.

2. The petitioner has filed this writ petition seeking to quash the departmental proceeding no.87 of 2007 dated 15.10.2007 under Annexure-9.

3. Ms. B.K. Pattnaik, learned counsel for the petitioner contended that the petitioner has retired from service on attaining the age of superannuation w.e.f. 30.06.2002 and after five years of his retirement, the memorandum of charge has been issued under Annexure-9 dated 15.10.2007 by the Managing Director, OLIC. As such, after five years of retirement from service, initiation of the proceeding is without jurisdiction and more so the Managing Director cannot initiate the proceeding against the petitioner. Therefore, the petitioner has approached this Court by filing the present writ petition.

4. Mr. H.K. Panigrahi, learned Addl. Standing Counsel

contended that since the petitioner has retired from service, after four years initiation of proceeding is without jurisdiction.

5. Considering the contention raised by learned counsel for the parties and after going through the records, since the petitioner has already retired from service w.e.f 30.06.2002 and, as such, the proceeding has been initiated by the Managing Director vide Annexure-9 dated 15.10.2007 after expiry of four years, as per the OCS (Pension) Rules, initiation of such proceeding is absolutely bad in law. More so, since the proceeding has been initiated by the Managing Director, instead of Government, such proceeding cannot sustain in the eye of law. Accordingly, the departmental proceeding no.87 of 2007 dated 15.10.2007 under Annexure-9 is liable to be quashed and is hereby quashed.

6. The writ petition is accordingly allowed.
Issue urgent certified copy as per rules.

Ashok

(Dr. B.R. Sarangi)
Judge