

IN THE HIGH COURT OF ORISSA AT CUTTACK

WA No.481 of 2019

***Commandant, 27th Battalion, BSF &
Others***

Appellants

Mr. P.K. Parhi, DSGI with
Mr. B.S. Rayaguru, CGC

-versus-

Nrusingha Charan Pradhan

....

Respondent

Mr. Prasanna Kumar Nanda, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE M. S. RAMAN**

**ORDER
05.12.2022**

Order No.

03.

I.A. No.762 of 2019

1. For the reasons stated therein, the delay in filing the writ appeal is condoned.
2. The I.A. is disposed of.

W.A. No.481 of 2019

3. The present appeal is directed against an order dated 22nd July, 2019 passed by the learned Single Judge disposing of W.P.(C) No.4582 of 2007, in which order dated 3rd November, 2006 passed by the Commandant, 27th Battalion, Boarder Security Force (BSF) dismissing deceased Respondent-Nrusingh Charan Pradhan from service was challenged. One of the main grounds of challenge was

that the dismissal order was in violation of the principles of natural justice.

4. However, during the pendency of the writ petition, the Respondent-Nrusingh Charan Pradhan died. The learned Single Judge as found that charge submitted against the Respondent in the Summary Security Force Court was sought to be amended after the disposal of the summary proceedings. The learned Single Judge observed that the amended charge should have resulted in reopening of the trail and instead, the Appellate Authority proceeded to confirm the dismissal order on the basis of the amended charge.

5. Considering the above facts and the fact that the Respondent has died, the learned Single Judge while setting aside the order of the dismissal for violation of the mandatory provisions of the Border Security Force Act, 1968 (BSF Act), observed that there was no scope for re-doing the entire proceedings and, therefore, there was no purpose in remanding the matter. Accordingly, the learned Single Judge declared that the Disciplinary Proceedings themselves as having abated and directed the release of the retiral financial benefits to the family of the Respondent.

6. Having heard learned counsel for the parties, the Court is not able to find any legal infirmity in the impugned order of the learned Single Judge warranting interference by this Court. For procedural illegalities, one possible course of action was for the learned Single Judge to have remanded the matter for conducting the entire disciplinary proceedings afresh. However, with the Respondent having expired, that possibility did not exist. Therefore, the learned Single Judge was justified in issuing the directions as contained in

the impugned order. The Court finds no ground made out for interference.

7. The writ appeal is, accordingly, dismissed.

(Dr. S. Muralidhar)
Chief Justice

(M. S. Raman)
Judge

MRS/Laxmikant

