

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC (OA) No. 171 of 2010

Raj Kishore Sahu

....

Petitioner

Mr. P.K. Dash, Advocate

-Versus -

State of Odisha and Ors.

....

Opp. Parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

ORDER

10.08.2022

Order No.
04

This matter is taken up through hybrid mode.

2. Heard Mr. S. Behera, learned counsel for the Petitioner and Mr. A.K. Mishra, learned Addl. Government Advocate appearing for the State Opposite parties.

3. The Petitioner has filed this writ petition challenging the order of punishment imposed by the disciplinary authority vide Annexure-6 and the order of confirmation passed by the appellate authority under Annexure-7.

4. Mr. S. Behera, learned counsel for the Petitioner contended that the punishment was imposed on the petitioner ex parte vide order dated 22.07.2007 under Annexure-6, therefore such an order cannot sustain in the eye of law. Even though such fact was agitated before the appellate authority in appeal, without considering the same in proper perspective, the appellate authority dismissed the appeal vide Annexure-7, therefore, the same also cannot sustain in the eye of law.

5. Mr. A.K. Mishra, learned Addl. Government Advocate appearing for the State Opposite parties contended that if the order of punishment was passed by the disciplinary authority ex parte, opportunity of hearing should be given to the petitioner.

6. Having heard learned counsel for the parties and after going through the record, this Court is of the considered view that since ex parte order of punishment was passed by the disciplinary authority and the same was confirmed by the appellate authority in appeal without appreciating the grounds of appeal in proper perspective, the same are liable to be quashed. Accordingly, the order of punishment under Annexure-6 dated 22.07.2007 and the order of confirmation passed by the appellate authority in Annexure-7 are hereby quashed. The matter is remitted back to the disciplinary authority to start a de novo proceeding by giving due opportunity of hearing to the petitioner and pass a fresh order in accordance with law.

7. With the above observation and direction, the writ petition stands disposed of.

8. Issue urgent certified copy as per rules.

(Dr. B.R. Sarangi)
Judge

GDS