

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 22863 of 2019

*State of Odisha & Another*

.....

***Petitioners***

*Mr. P.P. Mohanty, AGA*

Vs.

*Sarat Chandra Kar & Others*

.....

***Opposite parties***

*Mr. P.K. Mohapatra, Advocate*

*For the O.P. 1*

**CORAM:**

**DR. JUSTICE B.R. SARANGI**

**MR. JUSTICE V.NARASINGH**

**ORDER**

**12.07.2022**

**Order No.**

06

1. This matter is taken up through hybrid mode.
2. Heard Mr. P.P. Mohanty, learned Additional Government Advocate for the Petitioner and learned Counsel appearing for Opposite Party No.1.
3. The Petitioners-State have filed this Writ Petition to quash the order dated 05.12.2016 passed in O.A. No.3172 of 2015 by the Odisha Administrative Tribunal, Bhubaneswar.
4. Mr. P.P. Mohanty, learned Additional Government Advocate for the Petitioner contended that the direction of the Tribunal is not legally tenable and in support of his contention, has relied upon the judgment of a Division Bench of this Court in *State of Orissa v. Sri Balabhadra Jal*, 2015(I) OLR 537, wherein this Court has formulated the question in paragraph-10 of the said Judgment and also answered the same in paragraph-11 relying upon the judgment of the apex Court in *Secretary, Min. of Defence and others v. Prabash*

**Chandra Mirdha**, (2012) 11 SCC 565 and has come to a conclusion in paragraph-12 to the following effect.

*“12. On the anvil of the decision cited supra, we have examined the present case. The opposite party has not challenged the charge-sheet on the ground that the authority issuing the same is not competent to initiate the disciplinary proceeding. A disciplinary proceeding is not liable to be quashed on the ground that the proceeding had been initiated as a belated stage or could not be concluded in a reasonable period, unless the delay creates prejudice to the delinquent employee. While passing the order, the learned Tribunal has not kept the aforesaid principles in view. In view of the same, we are of the opinion that the order dated 22.03.2001 passed by the learned Tribunal in O.A.No.320 of 2001 is not in consonance with law. The learned Tribunal travelled beyond its jurisdiction in passing the order.”*

5. Since this Court has already decided the question, nothing remains to be adjudicated in the present case. While endorsing the finding of this Court in **Balabhadra Jal** (supra), this Court also takes similar view in this Writ Petition. Accordingly, Order dated 05.12.2016 passed in O.A. No.3172 of 2015 by the Odisha Administrative Tribunal, Bhubaneswar cannot sustain in the eye of law and the same are liable to be quashed and are hereby quashed. Therefore, this Court directs the Petitioners to take necessary steps in accordance with law.

6. With the above observation & direction, the Writ Petition stands disposed of.

7. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)  
JUDGE

(V.NARASINGH)  
JUDGE

