

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OA) No.1589 of 2018

Artatran Mallick

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

29.11.2022

Order No

03.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. R.K. Bisoi, learned counsel for the Petitioner and Mr. D.K. Mohanty, learned Addl. Standing Counsel appearing for the Opp. Parties.

3. The present writ petition has been filed with a prayer to quash the memorandum of charges issued under Annexure-4 with a further prayer to regularize the period of suspension of the applicant and to release the pay as per the 7th Pay Commission/recommendation.

4. It is submitted by Mr. Bisoi, learned counsel for the Petitioner that the Petitioner while continuing as Tahasildar under Jagannathprasad Block, he was placed under suspension vide order dtd.25.03.2010 under Annexure-1 pending drawal of proceeding. Subsequently vide office order dtd.19.03.2013 under Annexure-3 he was reinstated in his service.

5. Even though the Petitioner in contemplation of initiation of the proceeding was placed under suspension on 25.03.2010, but the

proceeding was only initiated against him vide memorandum dtd.19.03.2013 under Annexure-4. In the said proceeding the Inquiry Officer initially appointed submitted his report vide Annexure-6 with the following observation:

“In view of this, the charges were not well settled against the Delinquent Officer as were not proved on records.

It is therefore, proposed that since the charges are not proved against the Delinquent Officer, he may not be proceeded under Rule 15 of OCS(CCA) Rules and in consideration of the facts above, the Disciplinary Authority may kindly consider to exonerate him from the charges.”

6. The Disciplinary Authority not being satisfied with the report as submitted under Annexure-6 directed for causing fresh inquiry. In the second inquiry report, the Enquiry Officer submitted the report under Annexure-7 with the following observation:-

“I am therefore to submit that the Delinquent Officer Sri Artatran Mallick had verified the Yaddasts and disposed the same on verification of records & reports. I find no infringement of procedure has been caused by him in disposing the land records.”

7. In spite of submission of the second inquiry report when the proceeding was not finalized, the Petitioner approached the learned Tribunal in O.A. No. 3036 of 2016. Learned Tribunal vide order dtd.18.05.2017 under Annexure-8 disposed of the O.A. with a direction on the Opp. Parties to complete the proceeding in all respect within a period of three (3) months from the date of receipt of this order. In spite of such order passed by the leaned Tribunal when the proceeding was not finalized, the present writ petition was filed with the prayer as indicated hereinabove.

8. It is the main contention of the Petitioner that because of the pendency of the proceeding, the Petitioner is not getting benefit of promotion, whereas persons placed below the Petitioner have

already got the said benefit. This Court after going through the materials available on record finds that in both the inquiry report the Enquiry Officer has found nothing against the Petitioner and the last such inquiry report was submitted on 01.12.2015 under Annexure-7. This Court also finds that even after submission of the second inquiry report no further action has been taken by the Disciplinary Authority in completing the proceeding in terms of Rule 15 of OCS (CCA) Rules, 1962. Not only that the order passed by the learned Tribunal to dispose of the proceeding within a period of 3 (three) months vide order under Annexure-8 has also not been complied with.

9. In view of such conduct of the Disciplinary Authority and the inordinate delay in concluding the same, this Court is inclined to quash the proceeding as initiated against the Petitioner on 19.03.2013 under Annexure-3, placing reliance on the decision of the Hon'ble Apex Court in the case of *State of Andhra Pradesh Vrs. N. Radhakishan*, reported in *AIR 1998 SC 1833*. While quashing the same, this Court directs the Opp. Party No. 1 to take all effective steps to regularize the period of suspension and after such regularization extend the financial benefit as due and admissible in favour of the Petitioner including the benefit of promotion, if he is otherwise eligible. This Court directs the O.P. No. 1 to complete the entire exercise within a period of four (4) months from the date of receipt of this order.

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

(Biraja Prasanna Satapathy)
Judge

Sneha