

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) NO.2061 OF 2016

Bilasa Mallick

....

Petitioner

-versus-

State of Odisha & Others

....

Opp. Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

14.10.2022

Order No

6. 1. This matter is taken up through Hybrid Mode.

2. Heard Mr. S. Mallik, learned counsel for the petitioner and Mr. Y.S.P. Babu, learned A.G.A.

3. The present writ petition has been filed with the following prayer.

(1) quash the impugned order
dtd.12.1.2016 of dismissal as at Annexure-9

(ii) direct/order that the applicant
shall be reinstated into service with all
consequential service and monetary benefits.

4. It is submitted that the order of dismissal initially passed against the petitioner was set aside by the appellate authority by remanding the matter with a direction on the Disciplinary Authority to proceed with the matter from the stage of issuance of 1st show-cause notice. It was submitted that after such remand, the petitioner was reinstated in service on 30.4.2015 and when the 1st show cause notice was issued on 25.8.2015, the petitioner submitted his reply to the

same on 7.9.2015. It is also submitted that subsequently when the 2nd show-cause was issued without considering the grounds taken in the reply to the 1st show-cause, the petitioner prayed for some time to submit the reply to the same. It is submitted that the petitioner submitted his reply to the second show cause on 11.1.2016 and the Disciplinary Authority without considering the same and without giving an opportunity of hearing to the petitioner, passed the order of punishment by dismissing the petitioner from his service on the very next date i.e. 12.1.2016. It is accordingly submitted that since principle of natural justice has not been followed, the impugned order of punishment passed by the Disciplinary Authority under Annexure-9 is to be interfered with by this Court.

5. Mr. Y.S.P. Babu, learned A.G.A on the other hand submitted that against the order of punishment passed on 12.1.2016 under Annexure-9, the petitioner has preferred an appeal before the appellate authority i.e opp. party no.3 on 27.1.2016 and the said appeal has not yet been considered. It is accordingly submitted that appropriate direction be issued to take up the appeal and dispose of the same.

6. Mr. Mallik, learned counsel for the petitioner at this point of time submitted that even though the petitioner has preferred an appeal before opp. party no.3, but the said authority vide his order dated

27.3.2012 under Annexure-C to the counter while directing for initiation of the proceeding against the petitioner indicated that the petitioner be dismissed from his service. Therefore, it is submitted by Mr. Mallick, learned counsel for the petitioner that the petitioner will not get proper justice from the said appellate authority, even if he has preferred an appeal before him.

7. Having heard learned counsel for the parties and in view of the observation of Opp. party No.3 reflected in Annexure-C to the counter, this Court instead of directing the said authority to dispose of the appeal deem it fit and proper to quash the impugned order on the ground of non-compliance of principle of natural justice. While quashing the impugned order passed under Annexure-9 remand the matter to opp. party no.4 to take a fresh decision by considering the reply submitted to the 2nd show-cause on 11.1.2016. Opp. Party No.4 shall also give a personal hearing to the petitioner prior to taking a final decision in the matter.

8. Since the petitioner is going without service, opp. party no.4 shall conclude the proceeding within a period of three months from the date of receipt of this order. The petitioner is directed to produce a copy of this order before the said opp. party within a period of seven days from the date of receipt of this order.

(Biraja Prasanna Satapathy)
Judge

