

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.517 of 2015

An application under Section 19 of the State Administrative Tribunal's Act, 1985.

.....

Nagardeep Sethy

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner : M/s. Mr.J.K.Lenka,
P.K.Behera & M.R.Behera.

For Opp. Parties : M/s. M.K.Balabantaray,
Standing Counsel.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

संविधिक न्यायो

Date of Hearing:10.05.2022 and Date of Order:18.05.2022

Biraja Prasanna Satapathy, J.

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. J.K.Lenka, learned counsel for the Petitioner and Mr. M.K.Balabantaray, learned Standing counsel for the State-Opposite Parties.
- 3.** The present writ petition has been filed by the Petitioner with the following prayer:-

(i) Quash / set aside the order dtd.29.6.2011, 27.3.2012 and 9.7.2014 at Annexure-7, & and 10 respectively;

(ii) Direct the Respondents to sanction the leave on medical ground for the period from 23.2.2010 to 16.6.2010 as leave due admissible as per Leave Rules.

(iii) Issue any other order / direction which would afford complete relief to the applicant”.

4. It is submitted by Mr. Lenka, learned counsel for the Petitioner that the Petitioner while continuing as A.S.I of Police in Barbil P.S., he submitted a sick report on 23.02.2010 and remained absent from his duty w.e.f. the said date.

5. It is submitted that because of his remaining under treatment from 24.02.2010 to 16.06.2010, he could not report in his duty and submitted his joining report after recovery from his illness on 17.06.2010.

6. It is submitted that after his recovery from illness and consequently joining on 17.06.2010, when the Petitioner prayed for sanction of the leave on such medical ground, the same was rejected by the S.P., Malkanagiri vide his order dated 29.06.2011 under Annexure-7.

7. It is submitted that against the said order, the Petitioner preferred an appeal before the D.I.G of Police (WR) Rourkela and the said authority vide order dated 13.02.2018 under Annexure-8 rejected the claim of the Petitioner.

8. It is also submitted that against the said order of the appellate authority, the Petitioner though moved the Opposite Party No.2 under Annexure-9, but the said authority also refused to entertain the Petitioner's claim i.e. regarding sanction of the leave of the Petitioner from 24.06.2010 to 16.06.2010.

9. It is submitted that in support of his illness, the Petitioner while rejoining on 17.06.2010 submitted the Medical Certificate issued by the competent authority on 16.06.2010 under Annexure-4. But it is submitted that only on the ground that the said certificate has not been countersigned by the C.D.M.O, the Opposite Parties refused to sanction the leave while passing the impugned orders under Annexures-7, 9 & 10.

10. Mr. Lenka submitted that there is no provision for counter signature of the Medical certificate by the C.D.M.O. and the certificate issued under Annexure-4 was duly countersigned by the concerned doctor as reflected in Annexure-4.

11. Accordingly, Mr. Lenka submitted that the grounds on which the claim of the Petitioner has been rejected vide Annexure-7 and upheld vide Annexures-8 and 10 needs interference of this Court.

12. Mr. Balabantaray, learned counsel for the State-Opposite Parties made his submission basing on the stand taken in the counter.

13. It is submitted that since the Medical Certificate produced by the Petitioner under Annexure-4 was not

countersigned by the C.D.M.O., the authority has rightly rejected the prayer the sanction the leave for the period indicated hereinabove.

14. Heard learned counsel for the Parties.

15. Perused the materials available on record. This Court after perusing the same finds that the Medical Certificate under Annexure-4 has been issued by the competent authority and it should not have been rejected on the ground that it has not been countersigned by the C.D.M.O of the District.

16. Since on no other grounds the said certificate has been disbelieved, this Court finds that the claim of the Petitioner has been illegally rejected under Annexure-7 and the same was upheld by the higher authority under Annexures-8 and 10. This Court accordingly quash the said orders issued under Annexures-7, 8 and 10 and while quashing the said orders, direct the Opposite Party No.2 to sanction the leave as prayed for by the Petitioner for the period from 24.02.2010 to 16.06.2010 and release the amount as due and admissible in favour of the Petitioner within a period of three months from the date of receipt of this order.

17. With the aforesaid observations and directions, the WPC(OAC) stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 18th of May, 2022/Subrat