

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) NO.240 OF 2015

In the matter of an application under Section 19 of
the Administrative Tribunals Act, 1985

**Santanu Kumar Acharya & Petitioners
Others**

-versus-

State of Odisha & Others Opp. Parties

For Petitioner : M/s. G.P. Dutta, Advocate

For Opp. Parties: M/s. N.N. Satapathy, Advocate

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 11.5.2022 & Date of Order: 17.5.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up by video conferencing mode.
2. Heard Mr. G.P. Dutta, learned counsel appearing for the Petitioners and Mr. N. N. Satapathy, learned counsel for the State-Opp. Parties.
3. The Petitioners have filed the present Writ Petition with the following prayer.

“(i) To admit the Original Application

(ii) To issue appropriate direction/s to the respondents to reconsider the decision and to quash the letters as per Annexure-6 series.

(iii) May pass such other order/s as deem fit and proper.”

4. It is submitted that the Petitioners while continuing in different capacity under the Opposite Parties, they were issued with the notices under Annexure-6 series with a direction to deposit the objected amount within 15th August, 2014. It is submitted that the said notices under Annexure-6 series were issued with regard to compliance of the objection made by the Special Audit for the period from 1.4.2010 to 31.8.2011. It is also submitted that in the said notices, no recoverable amount was indicated.

5. Mr. Dutta, learned counsel for the Petitioners submitted that on receipt of the said notices under Annexure-6 series, though a prayer was made before the Opp. Party No.3 to reconsider the same, but no action was taken and the petitioners when were insisted to deposit the objected amount, they approached this Court in the present Writ Petition.

6. It is submitted that this Court while issuing notice in the matter on 22.1.2015, passed an interim order indicating therein that no coercive action will be taken against the petitioners pursuant to Annexure-6 series till the next date.

7. It is also submitted that during subsistence of the interim order, all the petitioners have retired from their services. It is also submitted that even though notices of the Writ Petitioner as issued on 22.1.2015, but no counter affidavit has been filed disputing the stand taken by the Petitioners in the Writ Petition. It is also submitted that notices under Annexure-6 series were issued straightaway without giving an opportunity of hearing to the Petitioners to prove of their innocence.

8. Perusal of the records also shows that prior to issuance of notices under Annexure-6 series, the petitioners were never show-caused nor any opportunity of hearing was given prior to fixing the liability on them basing on the objection made by the Special Audit. Since no counter have been filed disputing the stand taken by the petitioners, this Court is constrained to accept the same and quash the notices issued against the petitioners under Annexure-6 series. By quashing the

same, this Court remand the matter to Opp. Party No.3 to take a fresh decision by giving reasonable opportunity of hearing to the petitioners. Since all the petitioners have retired in the meantime and it is submitted that the recoverable amount has been recovered from each of the petitioners, in spite of the interim order passed on 22.1.2015, this Court directs Opp. Party No.3 to take a fresh decision by following principles of natural justice within a period of four months from the date of receipt of this order. It is observed that in case no recovery is found, the withheld amount, if any, be released in favour of the Petitioners.

9. With the aforesaid observation and direction, the Writ Petition is disposed of.

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B.P. Satapathy, J.

Orissa High Court, Cuttack
Dated the 17th May, 2022/sangita