

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C)(OAC) No. 200 of 2015**

**Udaynath Majhi**

**....**

**Petitioner**

**-versus-**

**State of Odisha & Ors.**

**....**

**Opposite Parties**

**CORAM:**

**JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER**  
**29.07.2022**

**Order No**

**03.**

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Heard learned counsel for the Parties.
3. The present writ Petition has been filed challenging the order of punishment passed by O.P. No. 1 on 13.01.2015 under Annexure-11.
4. It is submitted that the Petitioner while continuing in the cadre of OES-I(SB), a proceeding was initiated against him vide office order dtd.31.08.2012 under Annexure-1. It is submitted that in the said Departmental proceeding though the Petitioner duly participated and file his written statement of defence, but the said proceeding was never disposed of in spite of successive orders passed by this Court in W.P.(C) Nos. 17725 of 2012 under Annexure-2 and W.P.(C) No.23470 of 2012 under Annexure-5.

5. It is submitted that in spite of specific direction of this Court when the proceeding was never concluded, the Petitioner again approached the learned Tribunal in O.A. No. 3648(C) of 2012. Learned Tribunal vide order dtd.11.04.2014 while disposing the matter directed as follows:-

*“It is made clear that in case the departmental proceeding will not be concluded in all respect by way of passing a final order within the above said period of six months from the date of communication of this order, the disciplinary proceeding will be deemed to have been dropped and accordingly all consequential service benefits as due and admissible to the applicant shall be extended in his favour within a period of two months thereafter. The applicant is also directed to cooperate in the day to day enquiry, in the proceeding, for its early conclusion. If the applicant will not cooperate in the departmental proceeding, the respondent shall conclude the same ex parte or file a petition for extension of time.”*

6. Mr. Mohanty, learned counsel for the Petitioner submitted that in spite of such clear order the proceeding was never concluded within the time stipulated by the learned Tribunal in its order dtd.11.04.2014. It is submitted that in view of the said order, since the proceeding was not concluded within the time stipulated, it should have been treated as dropped as against the Petitioner. But on the face of such order, the proceeding was allowed to continue and the order of punishment was passed on 13.11.2015 under Annexure-11.

7. Mr. Mohanty, learned counsel for the Petitioner submitted that order passed by the learned Tribunal on 11.04.2014 under Annexure-8 was never assailed by the State Opp. Parties and it attained finality in the eye of law.

**8.** It is submitted that in view of the clear stipulations contained in order dt.11.04.2014, the Authorities were not permitted to proceed with the inquiry after completion of the period of six months from the date of that order. Since admittedly the impugned order is passed beyond the period of six (6) months, the same is a nullity in the eye of law.

**9.** Mr. Samal, learned counsel appearing for the State-Opp. Parties made his submission basing on the stand taken in the counter affidavit. It is submitted that the impugned order of punishment passed against the Petitioner on 13.01.2015 since was duly concurred by the OPSC vide its letter dtd. 24.12.2014, no illegality has been committed by the State-Opp. Parties. Accordingly, it is submitted that the impugned order has been rightly passed and no interference is called for.

**10.** Heard learned counsel for the Parties and perused the materials available on record. This Court after going through the materials available on record, finds that the order dtd. 11.04.2014 passed by the learned Tribunal directing the Authority to conclude the proceeding within a period of six months was never challenged by the said Opp. Parties nor the said order was complied within the time.

**11.** In view of the stipulation contained in the said order, the proceeding is treated to be dropped after completion of period of six months. Since the impugned order has been passed admittedly beyond the period of six months, the same is not sustainable in the eye of law and is accordingly quashed.

**12.** While quashing the same, this Court directs the Opp. Parties to extent all the benefits as due and admissible and withheld in terms of the impugned order within a period of three months from the date of receipt of this order.

**13.** The writ Petition is allowed. There shall be no order as to cost.

**(Biraja Prasanna Satapathy)**  
**Judge**

*Sneha*

